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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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NELSON QUINTANILLA, ALEJANDRO AMAYA, ALEX AMIR  
AREVALO, MAYNOR FAJARDO, WALTER GARCIA, JOSE L.  
MARTINEZ, PRACELIS MENDEZ, OSMAR W. PAGOADA,  
JAVIER QUINTANILLA, EDWIN RIVERA, CARLOS ESCALANTE,  
KEVIN GALEANO, LERLY NOE RODRIGUEZ, JOSE VEGA  
CASTILLO, JUAN QUINTEROS, and MARCUS TULIO  
PEREZ,

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Plaintiffs,

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-against-

Case No:  
09-CV-5331

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SUFFOLK PAVING CORP., SUFFOLK ASPHALT CORP.,  
LOUIS VECCHIA, CHRISTOPHER VECCHIA,  
HELENE VECCHIA, and JOHN DOES 1-5,

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Defendants.

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September 20, 2011  
9:45 a.m.

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4875 Sunrise Highway  
Bohemia, New York

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EXAMINATION BEFORE TRIAL of NELSON

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QUINTANILLA, one of the Plaintiffs herein, taken  
by the Defendants, pursuant to Article 31 of the  
Civil Practice Law and Rules of Testimony, and  
Notice and order, held at the above-mentioned  
time and place, before Karen LaMendola, a  
Professional Court Reporter and Notary Public of  
the State of New York.

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2 A P P E A R A N C E S:

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4 LAW OFFICES OF LAUREN GOLDBERG, PLLC  
5 Attorneys for Plaintiffs  
6 501 Fifth Avenue  
7 New York, New York 10017  
8 (NOT PRESENT)

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9 LAW OFFICES OF PATRICK E. McNAMARA  
10 Co-Counsel for Plaintiffs  
11 868 Little East Neck Road  
12 West Babylon, New York 11704

10

11 BY: PATRICK E. McNAMARA, ESQ.

12

13

14 LAW OFFICES OF IAN WALLACE  
15 Co-Counsel for Plaintiffs  
16 501 Fifth Avenue  
17 New York, New York 10017  
18 (NOT PRESENT)

15

16

17

18 ZABELL & ASSOCIATES, P.C.  
19 Attorneys for Defendants  
20 4875 Sunrise Highway  
21 Bohemia, New York 11716

19

20 BY: SAUL ZABELL, ESQ.

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22

23 ALSO PRESENT:

24 Margarita Arias, Interpreter

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED

by and between the attorneys for the  
respective parties herein, that filing, sealing  
and certification be and the same are hereby  
waived.

IT IS FURTHER STIPULATED AND AGREED

that all objections, except as to the form  
of the question shall be reserved to the time of  
the trial.

IT IS FURTHER STIPULATED AND AGREED

that the within deposition may be  
signed and sworn to before any officer  
authorized to administer an oath, with the same  
force and effect as if signed and sworn to  
before the Court.

1

2 M A R G A R I T A A R I A S, the Spanish  
3 Interpreter herein, was duly sworn to  
4 interpret the questions from English into  
5 Spanish and the answers from Spanish into  
6 English to the best of her ability:

7 N E L S O N Q U I N T A N I L L A, the Witness  
8 herein, having been duly sworn through the  
9 Interpreter, was examined and testified as  
10 follows:

11 EXAMINATION BY

12 MR. ZABELL:

13 Q Would you please state your full  
14 name for the record.

15 A Nelson Quintanilla.

16 Q What is your current address?

17 A 8 Pennsylvania Avenue, Brentwood,  
18 New York 11717.

19 (Document consisting of a copy of  
20 Mr. Quintanilla's driver's license was  
21 marked as Defendants' Exhibit Number 1  
22 for identification, as of this date.)

23 Q Mr. Quintanilla, I'm going to show  
24 you a document that's marked as Defendants'  
25 Exhibit Number 1.

1 N. Quintanilla

2 Do you know what that is?

3 A Yes.

4 Q What is this that?

5 A It's a copy of my license.

6 Q Why do you look so angry there?

7 A That's the way I look.

8 Q Do you always look angry?

9 A Well, most people say that.

10 Q Most people say you look angry?

11 A Yes, but I'm not angry.

12 Q You don't look angry now.

13 A Most people tell me that. I don't  
14 know why.

15 Q When you smile, I see your  
16 dimples. You're not angry now.

17 A Most people -- I'm always like  
18 this.

19 Q Smiling?

20 A Yes.

21 Q You're not angry at me are you?

22 A No. Why?

23 Q Just asking.

24 A Okay.

25 Q You understand you are at a

1 N. Quintanilla

2 deposition; do you not?

3 A Yes.

4 Q At this deposition, you're going  
5 to be required to provide answers to the  
6 questions I ask you.

7 Do you understand that?

8 A Yes.

9 Q If you do not understand the  
10 question I ask you, you have an obligation to  
11 tell me you do not understand that question.

12 Do you understand that?

13 A Yes, that's fine.

14 Q If you provide an answer to a  
15 question I ask you, it will be assumed that you  
16 understood that question.

17 Do you understand that?

18 A I didn't understand.

19 Q If you provide an answer to any of  
20 the questions I ask you, it will be assumed that  
21 you understood the question.

22 Do you understand that?

23 A Okay, yes.

24 Q Yes, you understand that?

25 A Yes.

1 N. Quintanilla

2 Q When was the last time you have  
3 used alcohol?

4 A Alcohol, I don't usually drink.

5 Q Please answer my question.

6 A It's just that -- last year.

7 Q Are you currently under the  
8 influence of any alcohol or drugs?

9 A No.

10 Q Can you think of any reason why  
11 your ability to give truthful and accurate  
12 testimony today would be impaired?

13 A There are no reasons. I can  
14 answer what you ask me.

15 Q We'll see.

16 How would you characterize your  
17 memory?

18 A I say that I'm fine.

19 Q You say that you're fine?

20 A Yes.

21 Q Do other people say that you have  
22 a good memory?

23 A Well, when I speak with everyone  
24 else, they say that I'm fine.

25 Q Do you live at 8 Pennsylvania Avenue?

1 N. Quintanilla

2 A Yes.

3 Q With whom do you live at  
4 8 Pennsylvania Avenue?

5 A My wife, my children, my sister,  
6 and my niece; my sister's daughter.

7 Q How many children do you have?

8 A Two with my wife.

9 Q What are the ages of the two  
10 children that you have with your wife?

11 A My daughter is seven years-old,  
12 and my son is sixteen months old.

13 Q When I asked you how many children  
14 you had, rather than answering the question, you  
15 provided a qualifier. So I'm going to ask you  
16 again and ask you not to answer the question  
17 with a qualifier.

18 A Okay.

19 Q How many children do you have?

20 A Two.

21 Q Do you have any more than two  
22 children?

23 A No.

24 Q Do you know why you said to me  
25 that you only have two children with your wife?



1 N. Quintanilla

2 A Yes.

3 Q Why did you say you only have two  
4 children with your wife?

5 A Because they are the only ones  
6 that I have.

7 Q Do you have any children not with  
8 your wife?

9 A With my wife.

10 Q Do you have any children not with  
11 your wife?

12 A No.

13 Q Do you understand why I ask that  
14 question?

15 A No.

16 Q When you provide an answer that  
17 puts a qualifier in there, and here the  
18 qualifier was, with my wife, it leads me to  
19 believe that there are other answers that you  
20 are not providing. So if you had answered, no,  
21 I only have two children, I would not have asked  
22 any further questions.

23 A Okay.

24 Q But because you said, I only have  
25 two children with my wife, it begs me to ask

1 N. Quintanilla

2 additional questions.

3 Do you understand that?

4 A Yes.

5 Q Is there anything else you'd like  
6 to tell me?

7 A No.

8 Q Are you sure?

9 A Sure.

10 Q What is your wife's name?

11 A Anna Evelyn Flores.

12 Q Are you actually married to  
13 Anna Evelyn Flores?

14 A No.

15 Q So she's not your wife?

16 A No.

17 Q Why would you lie about that?

18 A I have no reason to lie.

19 Q I know, but you lied. You called  
20 her your wife when she's just the woman you live  
21 with.

22 A Well, since the Hispanics --  
23 whenever they ask about our wives, we all say  
24 it's my wife, even if we're not married.

25 Q Really?

1 N. Quintanilla

2 A Really.

3 Q Do you have any other wives?

4 A No.

5 Q Girlfriends?

6 A No.

7 Q Any children that people have  
8 claimed to be yours?

9 A No.

10 Q How old are you?

11 A Almost forty.

12 Q When were you born?

13 A January 8, '72.

14 Q Do you have a Social Security  
15 number?

16 A Yes.

17 Q How many?

18 A One.

19 Q What is your Social Security  
20 number?

21 A [REDACTED].

22 Q [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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N. Quintanilla

Q

MR. McNAMARA: Objection. I'm going to instruct the witness not to answer the question.

MR. ZABELL: I'm asking him who he provided that number to. That has absolutely nothing to do with his immigration status.

I don't plan on proceeding further than that, but if he provided that number to another individual who happens to be a defendant in this case and it indicates that payroll taxes were paid on behalf of him, then it's absolutely relevant in this case.

MR. McNAMARA: All right.

You can answer this question, but don't answer more than he asked.

Q

1 N. Quintanilla

2 Q What's the company that you  
3 started working at with Louie?

4 A Suffolk; Suffolk Paving.

5 Q When did you start working for  
6 Suffolk Paving?

7 A In '98.

8 Q In 1998, where did you work?

9 A For Suffolk, for Suffolk.

10 Q For Suffolk Paving?

11 A Yes.

12 Q In 1999, where did you work?

13 A For him, for Suffolk Paving.

14 Q In 2000, where did you work?

15 A In 2000, I worked for a different  
16 company, Lunati.

17 Q In 2001, where did you work?

18 A For Louie.

19 Q What company?

20 A For Suffolk Paving.

21 Q In 2002, where did you work?

22 A I worked for Suffolk, for Suffolk.

23 Q Suffolk Paving?

24 A Yes.

25 Q In 2003, where did you work?

1 N. Quintanilla

2 A I left for awhile. Yes, for a few  
3 months, and then, I returned and worked for  
4 Louie again. I don't remember. I don't  
5 remember.

6 Q At Suffolk Paving?

7 A Yes.

8 Q In 2004, where did you work?

9 A For Suffolk.

10 Q Suffolk Paving?

11 A Yes.

12 Q In 2005, where did you work?

13 A For Suffolk.

14 Q Suffolk Paving?

15 A Yes.

16 Q In 2006, where did you work?

17 A In 2006, I don't remember. The  
18 company changed names, and we were working with  
19 the union for Suffolk Asphalt.

20 Q In 2007, where did you work?

21 A For Suffolk Asphalt.

22 Q In 2008, where did you work?

23 A For Suffolk Asphalt.

24 Q In 2009, where did you work?

25 A For Suffolk Asphalt.

1 N. Quintanilla

2 Q In 2010, where did you work?

3 A For Suffolk Asphalt.

4 Q In 2011, where did you work?

5 A For Suffolk Asphalt. I worked

6 until July -- no, hold on. Yes, until

7 August 6th.

8 Q How did your employment come to an

9 end on August 6th?

10 A Because my boss sent me home.

11 Q Why were you sent home?

12 A I don't know, he didn't say.

13 After we had lunch, he sent me home.

14 Q Were you told to come back?

15 A No, he never called me back.

16 Q Did you call him?

17 A No.

18 Q Did you try to come back?

19 A No.

20 Q Why not?

21 A Since he didn't call me.

22 Q Are you working anywhere now?

23 A Yes, I'm working, but just days.

24 Q Where are you working days?

25 A I'm working for a company called

1 N. Quintanilla

2 Sunstone.

3 Q When did you start working for  
4 Sunstone?

5 A I don't recall, but it's been  
6 about three weeks.

7 Q So you started almost immediately  
8 after you left Suffolk Asphalt?

9 A About two weeks.

10 Q Are you paid in cash at Sunstone?

11 A No.

12 Q You're paid by check?

13 A Yes.

14 Q Do you have any of those checks  
15 with you?

16 A No.

17 Q When you worked for  
18 Suffolk Paving, did you ever work any side jobs?

19 A No.

20 Q Never did work on weekends?

21 A No.

22 Q You never did work on Saturdays?

23 A For Suffolk, yes, sometimes.

24 Q You never did work on Sundays?

25 A No.



1 N. Quintanilla

2 Q You never helped out any of your  
3 friends?

4 A No.

5 Q If they said you did, they would  
6 be lying?

7 A Yes, because I haven't done it.

8 Q Who is the owner of  
9 Suffolk Paving?

10 A Louie Vecchia.

11 Q Is he the only owner you knew  
12 about?

13 A After we went into the union, his  
14 son Chris Vecchia.

15 Q Is that Suffolk Paving?

16 A Suffolk Paving was before. I  
17 don't know if they always worked together. They  
18 do work together, but Louie has always been the  
19 owner.

20 Q So Louie has always been the owner  
21 of Suffolk Paving?

22 A Yes.

23 Q Do you have any reason to believe  
24 anybody else was the owner of Suffolk Paving?

25 A I don't know.

1 N. Quintanilla

2 Q Do you have any reason to believe  
3 anyone else is?

4 A Well, in the union company, it's  
5 Chris.

6 Q So the owner of Suffolk Asphalt is  
7 Christopher Vecchia; correct?

8 A Yes.

9 Q Do you have any reason to believe  
10 it's anybody else, other than Chris Vecchia?

11 A I don't know.

12 Q Did you prepare for this  
13 deposition in any way?

14 A No.

15 Q Did you meet with your attorneys?

16 A Yes.

17 Q When did you meet with them?

18 A About a month ago.

19 Q Where did you meet with them?

20 A In Manhattan.

21 Q Do you remember the day you met  
22 with them?

23 A No, I don't recall.

24 Q For how long did you meet with  
25 them?

1 N. Quintanilla

2 A About an hour.

3 Q Did you meet with this fellow next  
4 to you?

5 A No.

6 Q Where did you first meet the  
7 fellow next to you?

8 A Today.

9 Q Nice enough guy; right?

10 A Yes.

11 MR. McNAMARA: Thank you.

12 Q Did you meet with him before this  
13 deposition began?

14 A No.

15 Q When you met with your attorneys  
16 in the City, who did you meet with?

17 A With my other friends.

18 Q Who?

19 A Mendez, Carlos.

20 Q Pracelis Mendez?

21 A Yes. Pracelis Mendez,  
22 Carlos Escalante, Walter Garcia, Alejandro Amaya,  
23 and Edwin Rivera.

24 Q You all met together with the  
25 lawyers at the same time?

1 N. Quintanilla

2 A Yes.

3 Q You all got your stories straight  
4 when you met with the lawyers; right?

5 A No.

6 Q Everybody's story was different?

7 A No, since we all didn't work  
8 together; no.

9 Q So you all worked different times  
10 and different schedules; right?

11 A No. In one group, we were all  
12 together, and in the other one, it was only  
13 Mendez. Sometimes they would change them.  
14 Sometimes they would send someone else to work  
15 with Mendez.

16 Q So the schedules were different?

17 A It was always at the same time.  
18 We always got to the yard at the same time.

19 Q Do you drive?

20 A Yes.

21 Q Do you have your own vehicle?

22 A Yes.

23 Q For how long have you had your own  
24 vehicle?

25 A Since 2000.

1 N. Quintanilla

2 Q Did you ever drive a company  
3 vehicle?

4 A Yes.

5 Q When did you drive a company  
6 vehicle?

7 A I drove it -- I don't remember,  
8 but it was either 2004 -- I don't really  
9 remember. It was about three years or two.

10 Q Did you take that company vehicle  
11 home?

12 A No, because it was a big vehicle.  
13 It was a box truck.

14 Q You never brought that vehicle  
15 home?

16 A No.

17 Q Would you drive other employees to  
18 the job site?

19 A No.

20 Q Never?

21 A Never.

22 Q Nobody drove with you in the box  
23 truck?

24 A In the box truck, my coworkers.

25 Q How many of them?

1 N. Quintanilla

2 A We were five or six.

3 Q You didn't drive them all to the  
4 job site every day, did you?

5 A Most of the time, it was every  
6 day.

7 Q Sometimes they took another  
8 vehicle to the job site; right?

9 A In the same company, we also had a  
10 pickup.

11 Q Who would you pick up?

12 A No, I wouldn't pick anyone up.  
13 The company -- the one that drove the other  
14 vehicle was Carlos.

15 Q Carlos Escalante?

16 A Yes.

17 Q He would pick up other people and  
18 take them to the job site?

19 A Yes, he would pick Renato up.

20 Q Did you eat breakfast today?

21 A Yes.

22 Q What did you have?

23 A Corn Flakes.

24 Q Frosted?

25 A No, with milk.

1 N. Quintanilla

2 Q Did you ever eat breakfast before  
3 going to work?

4 A Yes, we would always stop in the  
5 mornings at 6:00, 6:30.

6 Q You would stop?

7 A Yes.

8 Q Where would you stop?

9 A At the deli.

10 Q What would you get?

11 A Sandwiches, egg sandwich with  
12 mayonnaise.

13 Q Mayonnaise?

14 A Yes.

15 Q Not bacon, egg, and cheese on a  
16 roll with ketchup?

17 A Sometimes.

18 Q Mayonnaise?

19 A Yes.

20 Q Not good.

21 Who would eat breakfast with you?

22 A We would have breakfast together.

23 We would buy the sandwich, and we would continue  
24 to the job with the food in the truck.

25 Q So all five or six of you would?

1 N. Quintanilla

2 A Five, six that were always in the  
3 truck.

4 Q Who were the people that were  
5 always in the truck?

6 A There was Walter, there was one  
7 who's name was Mario, Ronald, one who's name was  
8 Marcos, I was there. I don't remember the name  
9 of the other guy. We were always five or six in  
10 the box truck.

11 Q And every morning, you went out  
12 for breakfast?

13 A Not always.

14 Q Did everybody get mayonnaise on  
15 their egg sandwich?

16 A No, each one ate what they liked.

17 Q Did you get coffee, as well?

18 A A few times.

19 Q What kind of coffee do you like?

20 A I hardly drink coffee. When I  
21 drink it, I have it a little black.

22 Q All your coworkers said they liked  
23 7-Eleven coffee?

24 A Yes, but not always.

25 Q Where else; Starbucks?



1 N. Quintanilla

2 A Most of the time, it was 7-Eleven  
3 coffee.

4 Q Did you go to a deli and a  
5 7-Eleven to get coffee?

6 A No, no. When we went -- when we  
7 would pass by 7-Eleven, we would stop in the  
8 morning on our way to work.

9 Q But you wouldn't get egg  
10 sandwiches at 7-Eleven?

11 A No, no.

12 Q Because they don't have good egg  
13 sandwiches?

14 A No.

15 Q Do you know if any of your  
16 coworkers were allowed to meet you at the job  
17 site?

18 A No.

19 Q How do you know that?

20 A Because whenever we went to work,  
21 we couldn't get together -- we would start  
22 working at 7:30, we would work, and there were  
23 times when we were waiting for material. We  
24 would talk a little bit, then the truck came,  
25 and we would continue working.

1 N. Quintanilla

2 Q How long were you at the shop in  
3 the morning?

4 A From my house, it took twenty or  
5 twenty-five minutes, depending on the traffic.

6 Q You need to listen to the question  
7 I ask you. Otherwise, we're going to be here  
8 all day, and like mayonnaise on an egg sandwich,  
9 you don't want that; okay?

10 How long did you stay at the shop  
11 in the morning?

12 A I don't understand the question.

13 Q You said you would go to the shop  
14 every morning; correct?

15 A Yes.

16 Q How long were you there at the  
17 shop; five minutes, ten minutes?

18 A You're asking how long it takes  
19 from my house to the shop?

20 Q No.

21 How long did you stay at the shop  
22 every morning; five minutes, ten minutes?

23 A Five, five minutes. We would put  
24 the tools in the truck, and then we would leave.

25 Q Aren't the tools already in the

1 N. Quintanilla

2 truck?

3 A We would always get propane,  
4 cutters. Sometimes propane or cutters. Things  
5 that we finished or things that were damaged.

6 Q And that would take about five  
7 minutes; right?

8 A Yes. We would put everything in  
9 and would leave the yard, and we would get to  
10 the yard at 6:30.

11 Q I know. Everybody says you get to  
12 the yard at 6:30. I suspect by that smile on  
13 your face that it was very well rehearsed.

14 MR. McNAMARA: Objection.

15 MR. ZABELL: Let the record  
16 reflect that he's laughing now.

17 Q It's okay. It's okay to laugh.

18 A That's the time that we would get  
19 there, not always. Sometimes we would get there  
20 at 5:00 a.m. or 5:30. It depended. When we  
21 went to the City, 5:30, or when we went to  
22 East Hampton, West Hampton, 5:00 a.m.

23 Q You know there were GPS units in  
24 the trucks; right?

25 A Yes.

1 N. Quintanilla

2 Q And those GPS units track when the  
3 trucks moved?

4 A Well, I know that there were, but  
5 I didn't know how that worked.

6 Q So we know what time you got to  
7 the shop and what time you started up the truck.  
8 Did you know that?

9 A Yes.

10 Q Did your lawyers tell you that?

11 A No.

12 Q Did they show you the reams of  
13 information showing when those trucks started in  
14 the morning?

15 A We -- yes, we did show them the  
16 papers where we would write down the times.

17 Q Did your lawyers show you the GPS  
18 reports showing when the trucks were started and  
19 left the shop in the morning?

20 A No.

21 Q Because those GPS reports do not  
22 support your testimony.

23 You understand at this deposition,  
24 you're supposed to tell the truth; right?

25 A Yes, I am telling the truth.

1 N. Quintanilla

2 Q And if you were to lie at this  
3 deposition, it would carry the same penalties  
4 and effect as if you were lying before a Federal  
5 Judge.

6 Do you understand that?

7 A Yes, I understand that.

8 Q Did your lawyers explain to you  
9 the ramifications for that?

10 A Yes.

11 Q When?

12 A About -- yes, when -- about a  
13 month ago when we got together.

14 Q So every morning, you went to the  
15 shop for about five minutes; is that correct?

16 A Always.

17 Q And you would personally load the  
18 propane into the truck; correct?

19 A Yes -- not only me. Sometimes we  
20 would put four or five or six propanes.

21 Q But you could carry four or five  
22 or six; correct?

23 A We would all do it.

24 Q Who's "we"?

25 A Walter -- Walter, Ronald, his name

1 N. Quintanilla

2 is Marcus Tulio.

3 Q Marcus Tulio Perez?

4 A Yes.

5 Q Did you receive a paycheck for  
6 each week you worked?

7 A Yes.

8 Q Did those checks show the hours  
9 that you worked?

10 A Yes.

11 Q Did you ever receive cash  
12 payments?

13 A A few times.

14 Q How much cash would you receive?

15 A Once, my check was \$400, and one  
16 time, he gave me \$200.

17 Q Your check was \$400, or the cash  
18 was \$400?

19 A No, he gave me \$200 -- he gave me  
20 \$400 in cash.

21 Q Once, he gave you \$400 in cash,  
22 and once, he gave you \$200 in cash?

23 A Yes.

24 Q Can you remember any other amounts  
25 he gave you in cash?

1 N. Quintanilla

2 A No. He would always pay me by  
3 check.

4 Q And every check you received  
5 showed the hours you worked; correct?

6 A Yes.

7 Q Do you speak any English?

8 A A little bit.

9 Q Do you understand what I'm saying  
10 without the interpreter interpreting?

11 A Not everything, no. I don't  
12 understand. I don't understand.

13 Q How would you receive your work  
14 assignment at Suffolk Asphalt or Paving?

15 A They would give us a list of where  
16 our work was.

17 Q Who would give you that list?

18 A Tommy.

19 Q How would he give you that list?

20 A Every morning when we got there,  
21 they would put the papers on the table, and we  
22 would look to see who would go and we would  
23 leave.

24 Q Does the union know that you're  
25 working for Sunstone?

1 N. Quintanilla

2 A No.

3 Q You didn't report that to them?

4 A I put my union on hold.

5 Q Did you give them an out-of-work  
6 card?

7 A No.

8 Q Did you apply for unemployment  
9 benefits?

10 A Yes.

11 Q When?

12 A I don't remember, but it was after  
13 they sent me home.

14 Q And what did you tell  
15 unemployment?

16 A When they asked me why I was  
17 collecting, I said it was due to lack of work.

18 Q Was that an honest statement?

19 A Yes.

20 Q So you know why you were sent  
21 home?

22 A I don't know.

23 Q Well, you told -- you swore to  
24 unemployment that you were sent home because of  
25 lack of work; correct?



1 N. Quintanilla

2 A Yes.

3 Q Were you lying to unemployment?

4 A No. It's just that when you call,  
5 they send you a paper for you to fill out, and  
6 you write down the reason.

7 Q And you gave them a truthful and  
8 accurate reason; correct?

9 A Yes.

10 Q What was that reason; that  
11 truthful and accurate reason?

12 A I said that my boss had sent me  
13 home.

14 Q For what reason?

15 You already said it. We know what  
16 it is. You'll feel better when you say it.

17 A I didn't understand you.

18 Q You already said that you swore  
19 under penalty of perjury to unemployment that  
20 you were let go for lack of work; is that  
21 correct?

22 A Yes.

23 Q Did you lie to unemployment?

24 A No.

25 Q So you know the reason why you

1 N. Quintanilla

2 were let go.

3 The reason you were let go was for  
4 lack of work; correct?

5 A Yes.

6 Q So why are you trying to hide that  
7 reason now?

8 You're better than that.

9 A No, I'm not hiding anything.

10 Q You kind of are when you're not  
11 answering the question.

12 You can take a moment and ask your  
13 lawyer, and he'll tell you. He'll tell you. Go  
14 ahead.

15 Do you want a moment?

16 A No -- okay.

17 MR. ZABELL: Okay. He wants a  
18 moment with you, go ahead.

19 MR. McNAMARA: All right. Thank  
20 you.

21 (Whereupon, a recess was taken at  
22 this time.)

23 Q You all right?

24 A Yes.

25 Q You had the opportunity to speak

1 N. Quintanilla

2 with your attorney during that break?

3 A Yes.

4 Q Did he answer all your questions  
5 satisfactorily?

6 A Yes.

7 Q Are you getting your money's  
8 worth?

9 A Yes.

10 Q How much did you pay, by the way?

11 A I don't know.

12 Q Nothing; right?

13 A Nothing.

14 Q So you are getting your money's  
15 worth?

16 MR. McNAMARA: Objection.

17 A Yes.

18 Q Before you took a break, you said  
19 you applied for unemployment benefits?

20 A Yes.

21 Q And you said that you told  
22 unemployment that the reason why you weren't  
23 employed was because of lack of work; correct?

24 A Yes.

25 Q And you didn't lie to them?

1 N. Quintanilla

2 A No.

3 Q Which means you were sent home  
4 from Suffolk Asphalt because of lack of work;  
5 correct?

6 A Yes.

7 Q So before when you told me you  
8 didn't know why you were sent home, you were  
9 lying; correct?

10 MR. McNAMARA: Objection.

11 A Yes.

12 Q Please don't lie to me.

13 A I don't lie.

14 Q I understand why you might say  
15 that, but when you just answer a question that  
16 you were lying to me, it makes it seem as though  
17 the answer you just gave is yet another lie, and  
18 I don't want you to lie. I want you to tell the  
19 truth.

20 Do you understand that?

21 A Yes.

22 Q Please don't lie to me.

23 A Okay.

24 Q Thank you.

25 In 2003, you testified that you

1 N. Quintanilla

2 left Suffolk Paving for awhile.

3 Were you telling me the truth when  
4 you answered that question?

5 A Yes, yes.

6 Q Why did you leave Suffolk Paving  
7 for awhile?

8 A I left for the reasons that we  
9 would always work very late, and they didn't pay  
10 us the overtime. That's why I left.

11 Q Where did you go?

12 A I went -- I worked for  
13 Ralph Lunati, but I don't remember the year, but  
14 I don't remember the years that I worked for  
15 him.

16 Q You said you worked for  
17 Ralph Lunati in 2000?

18 A Yes, yes.

19 Q Are you saying you worked for  
20 Ralph Lunati in 2003, as well?

21 A Because in 2000 and in 2003, I  
22 don't remember if it was in Pave-Co or for  
23 Ralph Lunati. I don't remember.

24 Q Do you know if you worked for  
25 Pave-Co or Ralph Lunati during the paving

1 N. Quintanilla

2 season?

3 A Pave-Co, yes, in the paving.

4 Q You didn't work for Suffolk Paving  
5 at all in 2003?

6 A A few months, yes, a few months.

7 Q What months?

8 A We would always start in March or  
9 April. It was a short time, and then I  
10 returned. I don't remember the exact date.

11 MR. ZABELL: Excuse me. I need to  
12 take a break.

13 (Whereupon, a recess was taken at  
14 this time.)

15 Q What months in 2003 did you work  
16 for Suffolk Paving?

17 Only answer if you're sure. I  
18 don't want you lying.

19 A March, April, May, June. I don't  
20 remember, but through mid season, approximately.

21 Q Did you work full weeks in March?

22 A Yes -- no, not in March. No, not  
23 in March because the season would start in  
24 March. March 15th, and sometimes in April.

25 Q You know that I know the answers

1 N. Quintanilla

2 to most of the questions that I ask; right?

3 A I know.

4 Q So it's very important that you  
5 think about your answers before you provide them  
6 to me because like your lawyer, I only want to  
7 you to tell the truth.

8 A Okay.

9 Q It reflects poorly on you when you  
10 say something that's not true.

11 A Okay, but I don't remember.

12 Q If you don't remember, you need to  
13 say you don't remember.

14 Do you understand?

15 A Okay.

16 Q I don't want you to make up an  
17 answer.

18 A Okay.

19 Q Got it?

20 A (In English.) I got it.

21 MR. ZABELL: Let the record  
22 reflect that the deponent put his thumb  
23 up and said he got it in English.

24 Counselor, do you agree?

25 MR. McNAMARA: That's accurate.

1 N. Quintanilla

2 Q Did you ever take any sick days  
3 while you were working for Suffolk Paving?

4 A Yes. When I would get sick, I  
5 would call and say that I was sick.

6 Q About how many times a year would  
7 that happen?

8 A One -- about one or two times.

9 Q One or two times a year?

10 A Yes.

11 Q What do you like to eat for lunch?

12 A At lunch?

13 Q Si.

14 A Italian hero.

15 Q With meatballs?

16 A No.

17 Q Chicken parm?

18 A Or chicken cutlet.

19 Q You eat lunch every day; right?

20 A Yes, but fast.

21 Q When you were working for  
22 Suffolk Paving, you would eat lunch; correct?

23 A Yes.

24 Q What would you drink?

25 A Iced tea or water.



1 N. Quintanilla

2 Q Do you like Snapple Iced Tea or  
3 Arizona Iced Tea?

4 A No. We would get Snapple or  
5 Arizona.

6 Q Either/or; right?

7 A Yes.

8 Q You would get that at a deli;  
9 correct?

10 A Yes.

11 Q You would take a lunch break every  
12 day and get your lunch from a deli?

13 MR. McNAMARA: Objection.

14 A At the deli in the morning, we  
15 would buy breakfast, and at lunchtime, someone  
16 would go and pick up the food and bring it.

17 Q Who?

18 A Edwin would go.

19 Q Edwin Rivera?

20 A Yes.

21 Q Why Edwin?

22 A He would always go, since he was  
23 more familiar with the areas.

24 Q So he took a bigger break, and you  
25 guys had the smaller break?

1 N. Quintanilla

2 A Yes.

3 Q Did you ever go get lunch?

4 A Sometimes.

5 Q Do you like baseball?

6 A No, soccer.

7 Q You like soccer?

8 A Yes.

9 Q Did you ever play soccer at the  
10 worksite?

11 A About two times when we were  
12 waiting for material.

13 Q Two times a week?

14 A No, no.

15 Q Two times a month?

16 A It must have been -- it was two  
17 times.

18 Q Two times over ten years?

19 A Yes.

20 Q You know I don't believe you;  
21 right?

22 A No, but I'm not lying.

23 Q Where would the soccer ball come  
24 from?

25 A I always have it in my car.

1 N. Quintanilla

2 Q Why?

3 A Because sometimes from work, I  
4 would go to the field.

5 Q In the box truck?

6 A No, in my car.

7 Q Sometimes you would bring your car  
8 to the job site?

9 A Always.

10 Q So you always brought your car to  
11 the job site and not the box car; correct?

12 A From my house, I would take the  
13 car to the yard. We would leave it there, and  
14 from there, we would take the box truck and  
15 leave.

16 Q How would your soccer ball go from  
17 your car to the box truck?

18 A Because in the morning, I would  
19 put it into the box truck.

20 Q Every morning?

21 A No.

22 Q Just the mornings you expected to  
23 play soccer?

24 A It was only two times.

25 Q But those two times, you knew you

1 N. Quintanilla

2 were going to play soccer so you brought the  
3 soccer ball; right?

4 A I would put it in just in case we  
5 have time.

6 Q How often would you put it in  
7 "just in case?"

8 A It was only two times.

9 Q I'm going to give you an  
10 opportunity to rethink your answer, because I  
11 know you want to change it.

12 A No.

13 Q Take a moment to think about what  
14 you just said and whether or not it's  
15 believable, and if you want to change your  
16 answer, I'll give you an opportunity to do that.  
17 Think for a minute. Take a deep  
18 breath.

19 A Okay.

20 Q Take a breath again.  
21 Do you remember Pelé?

22 A Yes.

23 Q He used to play soccer with a  
24 grapefruit.

25 Did you ever play soccer with a

1 N. Quintanilla

2 grapefruit?

3 A No.

4 Q Did you have time to think?

5 A Yes.

6 Q Is there anything you want to  
7 change?

8 A No.

9 Q So on the two times that you  
10 played soccer, you correctly anticipated that  
11 you were going to have enough time in the day to  
12 take a break to play soccer, so you took the  
13 soccer ball from your car and moved it into the  
14 box truck just on those two days that you  
15 happened to play soccer, but never any other  
16 time; correct?

17 A Yes.

18 Q That's your answer?

19 A Yes.

20 Q You're sticking with it?

21 MR. McNAMARA: Objection.

22 A No.

23 Q What do you want to change?

24 A No, I'm not going to change  
25 anything.

1 N. Quintanilla

2 Q You're staying with that answer?

3 A Yes.

4 Q Because you believe it to be 100  
5 percent accurate?

6 MR. McNAMARA: Objection.

7 A Yes.

8 Q Do you know it's not terribly  
9 believable?

10 MR. McNAMARA: Objection.

11 A But that's the correct thing.

12 Q What kind of soccer ball did you  
13 keep in your car?

14 A Mikasa.

15 Q Is that the same soccer ball  
16 that's in your car now?

17 A No, not today.

18 Q You don't have a soccer ball in  
19 your car today?

20 A No.

21 Q You said you always keep a soccer  
22 ball in your car.

23 A Yes, but I take it out when -- I  
24 take it out on Sunday. I take my things out, I  
25 put them away, and I don't have them today.

1 N. Quintanilla

2 Q When do you put them back in?

3 A Saturday.

4 Q If you take them out on Sunday and  
5 put them in the day before, how is your soccer  
6 ball available for you to take into the box  
7 truck?

8 It's not very believable.

9 A Because I used to have it.

10 Q And now you don't?

11 A Not today.

12 Q Not today?

13 A No.

14 Q Tomorrow?

15 A I don't know if I'll put it in or  
16 not.

17 Q Do you want to take a break now?

18 A That's okay.

19 Q So you put the soccer ball in your  
20 car on Saturday, and you take the soccer ball  
21 out of your car on Sunday?

22 A Yes. In the afternoon when I come  
23 back from playing.

24 Q What days did you play soccer when  
25 you worked for Suffolk Paving?

1 N. Quintanilla

2 A I don't remember.

3 Q Was it a Saturday?

4 A No.

5 Q It can't be a Sunday because you  
6 didn't work Sundays; right?

7 A Yes.

8 Q So if your soccer ball is only in  
9 your car on Saturday and you take it out on  
10 Sunday, is it true that you played soccer during  
11 the week?

12 A Yes.

13 Q Explain to me how that happens.

14 A Look, look --

15 Q I'm looking.

16 A -- I always have my ball. I would  
17 put it in my car; okay? When -- we never knew  
18 when there was going to be time, but when there  
19 was time, we...

20 Q But you don't always have your  
21 soccer ball in your car; do you?

22 A No.

23 Q So when you say you always have  
24 your soccer ball in your car, you're lying;  
25 right?



1 N. Quintanilla

2 A I didn't say -- I said that I have  
3 a ball, but not always. Not always.

4 Q Before you said always.  
5 Were you incorrect in what you  
6 were saying?

7 A No.

8 Q So you always have a ball in your  
9 car?

10 A Yes.

11 Q Okay. Go to your car and get the  
12 ball, please.

13 MR. McNAMARA: Objection.

14 Q Go.

15 MR. McNAMARA: Objection,  
16 Counselor.

17 You don't have to go to the car to  
18 get the ball.

19 MR. ZABELL: Yes, he does.

20 MR. McNAMARA: He does not have to  
21 go get the ball.

22 A I don't have the ball in the car.

23 Q So you don't always have the ball  
24 in your car; do you?

25 A No.

1 N. Quintanilla

2 Q So you lied to me when you said  
3 that you did; right?

4 MR. McNAMARA: Objection.

5 A You confused me.

6 Q How?

7 A Because you're asking me a  
8 question, and then you're asking me another one.

9 Q That's what a deposition is, and  
10 you answer those questions honestly and  
11 truthfully, and you should never be confused.  
12 Your lawyer should have explained this to you.

13 Did they not?

14 MR. McNAMARA: Objection.

15 A No.

16 Q That's sad. They should have.

17 Is it your testimony that you did  
18 not always have a soccer ball in your car?

19 A Yes.

20 Q Before when you said you always  
21 have a soccer ball in your car, that was untrue;  
22 correct?

23 A Yes. When we played, I did have  
24 it.

25 Q Of course, you did; otherwise, you

1 N. Quintanilla

2 wouldn't have been able to play; right?

3 A Yes.

4 Q Do you always carry cleats in your  
5 car, spiked sneakers?

6 A Just that we didn't play with  
7 them. We played with our work boots.

8 Q You played with your work boots?

9 A Yes.

10 Q Did that hurt your feet?

11 A No.

12 Q It was okay?

13 A Yes.

14 Q Do you like playing in your work  
15 boots?

16 A No. At work I would wear them,  
17 but when we played other times, I would play  
18 with soccer shoes.

19 Q So all the times that you played  
20 soccer at work, you wore your work boots?

21 MR. McNAMARA: Objection.

22 A Yes.

23 Q Did you ever take the soccer ball  
24 into the box truck and not play soccer?

25 A No.

1 N. Quintanilla

2 Q Who played soccer with you?

3 A Once we played -- the time that we  
4 played, it was Mendez, Renato, me, Carlos, and  
5 Marcos.

6 Q Is Mendez a good soccer player?

7 A He used to play.

8 Q He looks angrier than you; is he?

9 A No.

10 Q You're angrier than him?

11 A No.

12 Q So then he's angrier than you?

13 A It's just that we're not angry.

14 Q Did he treat you fairly?

15 A Yes.

16 Q Renato, do you know what Renato's  
17 name is?

18 A Yes.

19 Q What is Renato's name?

20 A It's Maynor Fajardo. I don't know  
21 his name well. I don't remember his name.

22 Q Do you know a Renato Guerra?

23 A I don't know. I don't know.

24 Q Do you know if Maynor Fajardo ever  
25 used the name Renato Guerra?

1 N. Quintanilla

2 A I don't know. Since I've never  
3 seen his papers or anything, I don't know what  
4 his name is.

5 Q Did he ever present to you that  
6 his name should be Renato Guerra?

7 A I always knew him by Renato. We  
8 would all call him Renato.

9 Q Even though his name was  
10 Maynor Fajardo?

11 A Yes.

12 Q Your name is Nelson Quintanilla;  
13 correct?

14 A Yes.

15 Q Do the people call you a different  
16 name?

17 A Yes.

18 Q What did they call you?

19 A Only Victor.

20 Q Where did we get Victor from?

21 A I don't know. On the papers, it  
22 always says Victor, Victor.

23 Q On what papers?

24 A On my work papers.

25 Q Who is Victor?

1 N. Quintanilla

2 A I used to work with that name;  
3 Victor.

4 Q Does your mom ever call you  
5 Victor?

6 A No.

7 Q Does your dad ever call you  
8 Victor?

9 A No.

10 Q Do you like the name Victor?

11 A No.

12 Q Did you ever tell anybody your  
13 name was Victor?

14 A When I worked there in '98, that's  
15 only what he would call me. They would only  
16 call me Victor. Just Victor. Victor, they  
17 would call me.

18 Q Did you tell them your name was  
19 Victor?

20 A Yes.

21 Q Who did you tell?

22 A Louie.

23 Q But your name isn't Victor?

24 A No.

25 Q So you lied to Louie; correct?

1 N. Quintanilla

2 You could say it, we know.

3 A Yes.

4 Q Do you usually lie?

5 A No.

6 Q Did you ever lie to get something  
7 that you wanted?

8 A No.

9 Q Then, why did you lie to Louie?

10 A Because since he -- how do I say  
11 this?

12 Q I don't know.

13 A How do I say this?

14 Q I don't know.

15 A How do I say this?

16 Q Go ahead and just say it.

17 A 

18 Q No.

19 My question is: Why did you lie  
20 and tell Louie your name is Victor when Victor  
21 was not your name?

22 A I want to speak to my attorney.

23 MR. ZABELL: I'm going to withdraw  
24 the question.

25 Q You lied to Louie in order to the

1 N. Quintanilla

2 get the job; correct?

3 A I say yes, but because it wasn't  
4 my name.

5 Q So you lied just to get the job;  
6 correct?

7 A Yes.

8 Q Okay.

9 Do you want to speak to your  
10 lawyer now?

11 A Yes.

12 Q Go ahead.

13 (Whereupon, a recess was taken at  
14 this time.)

15 Q You had an opportunity to speak  
16 with your attorney?

17 A Yes.

18 Q Did he answer all your questions?

19 A Yes.

20 Q Did you discuss the content of  
21 this deposition?

22 A Yes.

23 Q He helped you sufficiently?

24 A Yes.

25 Q Are you getting your money's



1 N. Quintanilla

2 worth?

3 A Yes.

4 Q Is there anything you want to tell  
5 me?

6 A No, it's fine this way.

7 MR. ZABELL: Counselor, is there  
8 any statement you'd like to make?

9 MR. McNAMARA: No, we're fine  
10 right now.

11 Q Before you took that break, you  
12 advised me that you lied to Louis Vecchia in  
13 order to get a job at Suffolk Paving; is that  
14 correct?

15 A Yes.

16 Q Isn't it true that you will lie in  
17 order to get things that you want?

18 A No.

19 Q Isn't it true that in the past,  
20 you have lied to get things that you want?

21 A Yes, but one doesn't lie always.

22 Q So you just lie sometimes?

23 A [REDACTED]

24 [REDACTED]

25 Q So my question is: Do you just

1 N. Quintanilla

2 lie sometimes; yes or no?

3 A Yes.

4 Q And you're just lying sometimes  
5 here today; yes or no?

6 MR. McNAMARA: Objection.

7 A No, no, no.

8 Q Do you remember that you admitted  
9 to me that on at two least occasions today, that  
10 you gave me false answers?

11 MR. McNAMARA: Objection.

12 Q Don't you remember?

13 A (No verbal response.)

14 Q Yes or no?

15 A Yes.

16 Q Now, do you see a difference  
17 between giving a false answer and a lie?

18 A Excuse me?

19 Q Is there a difference between  
20 giving a false answer and a lie?

21 A (No verbal response.)

22 Q Yes or no?

23 A Yes.

24 Q What's the difference?

25 A I don't understand. I don't

1 N. Quintanilla

2 understand the question that you're asking me.

3 Q What don't you understand?

4 A I don't understand what you're  
5 telling me.

6 Q I'm not telling you anything. I'm  
7 asking you.

8 A That's why I don't understand the  
9 question.

10 Q You've just admitted that you told  
11 me answers that aren't true today; correct?

12 A Yes.

13 Q Those answers that weren't correct  
14 were lies; correct?

15 A Yes.

16 MR. McNAMARA: Objection.

17 Q And I already asked you not to lie  
18 to me; correct?

19 A Yes.

20 Q I warned you that if you lie under  
21 oath today, it has the same effect as if you had  
22 lied to a Federal Judge under oath; correct?

23 A Yes.

24 Q You've only told the truth  
25 sometimes during this deposition; correct?

1 N. Quintanilla

2 MR. McNAMARA: Objection.

3 A Yes.

4 Q And sometimes you have told  
5 untruths; correct?

6 A Yes.

7 Q So you're admitting to telling  
8 lies at this deposition?

9 MR. McNAMARA: Objection.

10 Q Correct?

11 A Yes.

12 Q I'm asking you not to tell any  
13 more lies.

14 MR. McNAMARA: Objection.

15 Q Okay?

16 A Okay.

17 Q Can you promise me that you'll  
18 tell no lies?

19 A Yes.

20 Q Who's idea was it to sue  
21 Suffolk Paving?

22 A Everyone's.

23 Q Who was the main person?

24 A There is no main person.

25 Q Why is your name first on the

1 N. Quintanilla

2 lawsuit?

3 A I don't know why they put mine  
4 first.

5 Q Who is the main person that gets  
6 everybody organized to go see the lawyers?

7 A The attorney calls everyone.

8 Q Who?

9 A Ian calls us.

10 Q When did you first start speaking  
11 with Ian regarding this lawsuit?

12 MR. McNAMARA: Objection.

13 This is privileged. It is  
14 privileged.

15 MR. ZABELL: Timing is not.  
16 Content is.

17 MR. McNAMARA: All right.

18 MR. ZABELL: Are you withdrawing  
19 your objection?

20 MR. McNAMARA: I will withdraw my  
21 objection.

22 A What is the question?

23 Q When did you first start speaking  
24 with Ian about this lawsuit?

25 A In about December.

1 N. Quintanilla

2 Q December of what year?

3 A Of 2009.

4 Q You started speaking to him in  
5 December of 2009 after everybody got laid off  
6 for the end of the season; correct?

7 A Yes.

8 Q Now, every year, you get laid off  
9 at the end of November, December, through March;  
10 correct?

11 A Yes.

12 Q And why do you get laid off?

13 A Because the company always closes.  
14 We can't put down the material that we put down.

15 Q You can't lay asphalt in December,  
16 January, February, and March; correct?

17 A No.

18 Q No, what I'm saying is correct?

19 A Yes.

20 Q How much are you suing  
21 Suffolk Paving for?

22 A I don't know.

23 Q Do you have an idea?

24 A No.

25 Q How much do you want from

1 N. Quintanilla

2 Suffolk Paving?

3 A I don't know. I really don't  
4 know.

5 Q Do you have any way of figuring it  
6 out?

7 A No.

8 Q Are there any documents you can  
9 review that will help you figure it out?

10 A I don't have any documents.

11 Q Do you know if any documents exist  
12 that will help you figure it out?

13 A Yes, there are.

14 Q What documents?

15 A The ones that my attorney has.

16 Q What documents are those?

17 A They're -- they did the  
18 calculations for the hours that we worked.

19 Q Do you know what they based those  
20 calculations on?

21 A (No verbal response.)

22 Q Yes or no?

23 A No.

24 Q Did you provide them any  
25 information to base those calculations on?

1 N. Quintanilla

2 A Well, we gave them all of our work  
3 hours and our check stubs.

4 Q Did you provide them with any  
5 information; you, specifically you?

6 A No.

7 Q Do you have any idea how many  
8 hours you worked in 2001?

9 A In 2001, at that time, we would  
10 start at 7:00 a.m., and we would get out at  
11 6:00, 7:00, or 8:00 p.m.

12 Q Every day?

13 A Not every day. Some days, we got  
14 out at 5:00, 5:00, 6:00.

15 Q Did you ever end any days earlier  
16 than that?

17 A At that time -- not at that time.

18 Q What if it rained? Would you ever  
19 leave after a half day if it rained; yes or no?

20 A Yes.

21 Q So you just lied to me again;  
22 correct?

23 MR. McNAMARA: Objection.

24 Q Yes or no?

25 A But --



1 N. Quintanilla

2 Q Yes or no?

3 A Okay, yes.

4 Q Please stop lying to me.

5 A Okay.

6 Q You promise not to lie to me?

7 A Yes.

8 Q Because if you keep lying to me,  
9 it's going to become a real problem.

10 A Okay.

11 Q Do you understand that?

12 A Okay.

13 Q I want you to say, I'm not going  
14 to lie to you at this deposition anymore.

15 A Yes.

16 Q Can you say that?

17 A Yes.

18 Q Please do.

19 MR. McNAMARA: Objection.

20 A Please --

21 Q Please say: I'm not going to lie  
22 to you anymore.

23 MR. McNAMARA: Objection.

24 A I'm not going to lie to you  
25 anymore.

1 N. Quintanilla

2 Q Okay, thank you.

3 When it rains or there was bad  
4 weather, you wouldn't work a full day; correct?

5 A When I would wake up and it was  
6 raining, no.

7 Q What if it started to rain in the  
8 middle of a day, would you ever go home early;  
9 yes or no?

10 A A few times, and sometimes we  
11 would finish the work.

12 Q Sometimes you would finish the  
13 work, and sometimes you would go home early;  
14 right?

15 MR. McNAMARA: Objection.

16 A Yes.

17 Q In 2002, how many hours did you  
18 work?

19 A In 2002 -- I don't remember.

20 Q In 2003, you worked for Pave-Co  
21 and Lunati?

22 A I don't remember if it was at  
23 Pave-Co or Lunati.

24 Q Oh, you didn't work for both of  
25 them?

1 N. Quintanilla

2 A Yes, but -- but...

3 Q But what?

4 A I left Suffolk, but I don't  
5 remember exactly which year because I left twice  
6 from Suffolk.

7 Q You didn't tell me that before.  
8 When did you leave Suffolk?

9 A I don't remember, I don't  
10 remember.

11 Q Can you try to remember?

12 A It's been some years. I don't  
13 remember. I don't remember.

14 Q Nelson, help me try to remember.

15 A I did work for Pave-Co --

16 Q When?

17 A -- but I don't remember the year.

18 Q Was it in 2003?

19 A I don't know. I don't remember.

20 Q Was it in 2004?

21 A No. It's just that I don't  
22 remember.

23 Q I know.

24 When you worked for Pave-Co, did  
25 you receive checks?

1 N. Quintanilla

2 A Yes.

3 Q Okay. So it will be on your  
4 income tax returns; right?

5 A Yes.

6 MR. McNAMARA: I'd like to stop it  
7 here, and just say that any questioning  
8 and answering in regards to income tax  
9 returns are subject to the  
10 confidentiality agreement.

11 Q So you worked for Pave-Co, but you  
12 just have no idea when; right?

13 A Yes, I don't remember when.

14 Q Do you know what years you're  
15 suing the defendants for in this lawsuit?

16 A From 2009, until 2 -- until --  
17 nine, ten, eleven, twelve until...

18 Q From 2003 to 2009; correct?

19 A One moment.

20 It's just that I don't know.

21 Q You have no idea what years you're  
22 suing the defendants for; correct?

23 MR. McNAMARA: Objection.

24 A Yes.

25 Q It wasn't explained to you by your

1 N. Quintanilla

2 esteemed counsel?

3 A No.

4 Q During some of those years that I  
5 think you're suing the defendants, you worked  
6 for Lunati and you worked for Pave-Co; correct?

7 A Yes.

8 Q And you just have no idea what  
9 years you worked for those two companies;  
10 correct?

11 A No.

12 Q And the only thing that will help  
13 you figure out when you worked for those  
14 companies is the tax information that those  
15 companies provided you; correct?

16 A Yes, I have it.

17 MR. McNAMARA: Objection.

18 MR. ZABELL: Rather than giving me  
19 your income tax returns, I'm going to  
20 request that you give me your W-2 Forms  
21 from Pave-Co.

22 MR. McNAMARA: Counselor, if you'd  
23 like to make a formal written demand for  
24 those, you can.

25 MR. ZABELL: We already have.

1 N. Quintanilla

2 MR. McNAMARA: Okay.

3 Q Do you have your W-2 Forms from  
4 Pave-Co?

5 A Yes.

6 Q Do you know exactly where they  
7 are?

8 A I have to look for them.

9 Q But do you know exactly where they  
10 are when you go look for them?

11 A I would have to -- it would take  
12 some time because I have a lot of papers to look  
13 through.

14 Q But you know you have them;  
15 correct?

16 A Yes.

17 Q Do you also have your W-2 Forms  
18 from Lunati?

19 A Yes.

20 Q Both of those companies only paid  
21 you in checks; right?

22 A In checks; yes.

23 Q Not cash?

24 A No cash.

25 Q Do you have any paycheck stubs

1 N. Quintanilla

2 from those companies?

3 A From Pave-Co, yes, but from  
4 Ralph Lunati, I don't remember.

5 MR. ZABELL: I'm going to ask that  
6 maybe during the break you go home and  
7 get those documents.

8 MR. McNAMARA: No.

9 MR. ZABELL: Stop. When I'm  
10 finished asking, you can make your  
11 objection.

12 MR. ZABELL: Maybe during the  
13 break, you go home and get these  
14 documents so I can question you on them.  
15 Otherwise, you may have to come back  
16 another day, and I'm trying to minimize  
17 that from occurring. Okay?

18 THE WITNESS: Okay.

19 MR. ZABELL: Counselor, you had  
20 something to say.

21 MR. McNAMARA: Yes.

22 I would like to object to that  
23 question and answer, and I would also  
24 like to add that if you would like any  
25 tax returns, you can make a formal

1 N. Quintanilla

2 motion.

3 MR. ZABELL: I'm not asking for  
4 tax returns.

5 MR. McNAMARA: You just asked for  
6 W-2s.

7 MR. ZABELL: That's not a tax  
8 return.

9 MR. McNAMARA: That is a tax  
10 return. You're thinking of W-4s.

11 W-4 is what's filled out to the  
12 employer so that they're able to file  
13 taxes.

14 MR. ZABELL: And what do you get  
15 at the end of the year, Counselor?

16 MR. McNAMARA: You get a W-2.  
17 That's a tax return.

18 MR. ZABELL: No, it's not a tax  
19 return. It's something you attach to a  
20 tax return.

21 Do you want to discuss this off  
22 the record so I could show you?

23 MR. McNAMARA: Yes, can we go off  
24 the record?

25 MR. ZABELL: If you're asking me



1 N. Quintanilla

2 if we can go off the record, my answer to  
3 that is yes, we can go off the record.

4 (Whereupon, a discussion was held  
5 off the record.)

6 MR. ZABELL: Counsel has indicated  
7 that he needs to speak with co-counsel  
8 and his client, and he's asking me to  
9 give him a few minutes to do so.

10 We will recess at this time.

11 (Whereupon, a recess was taken at  
12 this time.)

13 MR. ZABELL: We have a dispute,  
14 and we are going to call the Judge to get  
15 a ruling on the dispute, so what I'm  
16 going to do is ask the deponent to step  
17 out.

18 MR. McNAMARA: That's fine.

19 (Whereupon, the witness left the  
20 conference room.)

21 MR. ZABELL: Now, you know the  
22 Judge is going to want this on the  
23 record; right?

24 THE COURT REPORTER: Yes.

25 MR. ZABELL: Off the record for a

1 N. Quintanilla

2 moment.

3 (Whereupon, a discussion was held  
4 off the record.)

5 (Whereupon, a call was made to  
6 Judge Tomlinson, and the following  
7 colloquy was had:)

8 LAW SECRETARY: Judge Tomlinson's  
9 chambers.

10 MR. ZABELL: Yes, good morning,  
11 for the next five minutes anyway.

12 This is Saul Zabell, and I'm here  
13 with Patrick McCarthy --

14 MR. McNAMARA: McNamara.

15 MR. ZABELL: -- McNamara; I'm  
16 sorry.

17 We're at a deposition in the  
18 matter of Quintanilla v Suffolk Paving Corp.

19 LAW SECRETARY: I just need the  
20 case number.

21 MR. ZABELL: Sure, that's okay.  
22 It's 095331.

23 LAW SECRETARY: Who is being  
24 deposed?

25 MR. ZABELL: Nelson Quintanilla,

1 N. Quintanilla

2 who is one of the plaintiffs, is being  
3 deposed.

4 Do you want a brief outline of the  
5 issue?

6 LAW SECRETARY: Yes.

7 MR. ZABELL: Judge Tomlinson  
8 issued a protective order regarding the  
9 income tax returns for these individuals,  
10 and left open the door that there may be  
11 a need for them subsequent to deposition.

12 Well, we're at the deposition of  
13 Mr. Nelson Quintanilla, and I'm deposing  
14 him regarding the periods of time he  
15 claimed to have worked for the  
16 defendants.

17 He says that some time between, I  
18 believe, 2002 and 2005, he left the  
19 employ of the defendant to work for two  
20 different companies. I believe he  
21 testified one was called Pave-Co, we  
22 believe it to be Pave-Co, and another one  
23 was for Lunati, which is Ralph Lunati.

24 Now, he testified that he received  
25 W-2s from these companies, but he has no

1 N. Quintanilla

2 idea when he worked for them, and he  
3 can't tell us the periods of time that he  
4 left the employment of Suffolk Paving,  
5 even though he's suing Suffolk Paving for  
6 this period of time in the lawsuit.

7 We made a request for the W-2  
8 Forms that this individual received from  
9 Pave-Co and Lunati. He testified that  
10 he -- I'm sorry, his W-2 forms and for  
11 actual pay stubs. He testified that he  
12 has those; although, his lawyer is taking  
13 the position that he will not turn them  
14 over.

15 LAW SECRETARY: Okay, let me just  
16 briefly hear from other counsel.

17 MR. McNAMARA: Good morning. This  
18 is Patrick McNamara here.

19 We have objected to turning over  
20 the requested W-2s and pay stubs, and we  
21 believe that they are not relevant to the  
22 subject matter at the litigation, and  
23 we've instructed counsel to make a formal  
24 motion, if he'd like to, for them.

25 MR. ZABELL: Just a little bit

1 N. Quintanilla

2 more of some background.

3 We were specifically instructed by  
4 Judge Tomlinson not to make any more  
5 motions, letter or otherwise, and that  
6 all disputes should be brought up in a  
7 telephone conference with counsel  
8 present.

9 LAW SECRETARY: All right. Let me  
10 see what her recollection was on that, as  
11 well, and just give me a few moments.

12 Let me see if she is available to  
13 handle this.

14 MR. ZABELL: Thank you kindly.

15 THE COURT: Good morning. This is  
16 Judge Tomlinson.

17 Who is on for the plaintiff,  
18 please?

19 MR. McNAMARA: Good morning,  
20 your Honor. This is Patrick McNamara.

21 THE COURT: All right. And for  
22 the defendant?

23 MR. ZABELL: Good morning,  
24 your Honor, Saul Zabell.

25 THE COURT: First of all, is the

1 N. Quintanilla

2 witness excused?

3 MR. ZABELL: Yes. The witness is  
4 excused, and the court reporter is  
5 reporting.

6 THE COURT: Okay, good.

7 This has to do with the question  
8 of pay stubs and testimony being given  
9 about what the witness does or doesn't  
10 remember and, apparently, his, I assume,  
11 renewed request to get his tax returns.

12 Is that correct?

13 MR. ZABELL: I don't want his tax  
14 returns, your Honor, just the W-4  
15 Forms -- I'm sorry, W-2. I keep mixing  
16 that up. The W-2 Forms for a company  
17 that he identified as Pave-Co and another  
18 company that he's identified as Lunati,  
19 which he testified that he worked at  
20 sometime between 2002 and 2005.

21 He just doesn't remember the  
22 dates, but he says that he has both pay  
23 stubs for Pave-Co and W-2 Forms for both  
24 entities. That will show us the years in  
25 which he's worked.

1 N. Quintanilla

2 THE COURT: All right. And this  
3 is the contention that these are also the  
4 times he was working for the defendant?

5 MR. ZABELL: In his lawsuit, he  
6 has alleged that he worked for the  
7 defendant from 1998 through 2011.

8 THE COURT: Let me hear from  
9 plaintiff's counsel.

10 MR. McNAMARA: Your Honor, we  
11 believe they're not relevant to the  
12 subject matter of the litigation.

13 The fact that this particular  
14 plaintiff worked at, you know, other  
15 establishments at a certain point isn't  
16 relevant when defense counsel has records  
17 of when he was actually working at  
18 Pave-Co -- I'm sorry, at Suffolk Paving  
19 and Suffolk Asphalt.

20 THE COURT: Well, if he was  
21 working someplace else at the same time  
22 or in the same time period, it certainly  
23 occurs to me that it's relevant --

24 MR. McNAMARA: There isn't an  
25 allegation that --

1 N. Quintanilla

2 THE COURT: Let me finish; all  
3 right?

4 MR. McNAMARA: I'm sorry.

5 THE COURT: If this is the same  
6 timeframe in which he was working for the  
7 defendant, the defendant has the right to  
8 test out the validity of his claim that  
9 he was working a certain period of time  
10 and being paid a certain amount of money  
11 from defendant, so, again, the scope of  
12 relevance here is quite broad under the  
13 Federal Rules.

14 It doesn't mean that it's getting  
15 in at trial, but it's certainly broad  
16 enough that the restriction with the W-2  
17 Forms, if he's got them, I'm going to  
18 have him produce them; not his tax  
19 returns. I would not permit his tax  
20 returns to be produced without meeting a  
21 higher threshold required, which I don't  
22 see here, but his W-2 Forms, he  
23 certainly -- even if it is for another  
24 company, given the fact that it is in the  
25 same timeframe, there is some relevance



1 N. Quintanilla

2 here.

3 MR. McNAMARA: Can I just add,  
4 Your Honor, that if the defendants are  
5 already able to see from their own  
6 records what time periods Mr. Quintanilla  
7 worked at Suffolk Paving and Asphalt, I  
8 don't think it should be necessary to  
9 disclose the W-2s to prove that exact  
10 same information.

11 THE COURT: Well, Counsel, I think  
12 the time that he was working for the  
13 defendant is part of the issue being  
14 contested here, and with regard to what  
15 your client says he worked and what the  
16 defendant says he worked, may be two  
17 different things. I don't know that.

18 At this point, the defendants have  
19 the right to check that, given the claim  
20 that your client is making here, so he  
21 can present those W-2s.

22 MR. McNAMARA: Okay, your Honor.

23 THE COURT: I don't expect him to  
24 have them on him today, obviously.

25 MR. ZABELL: Actually, your Honor,

1 N. Quintanilla

2 he lives in Brentwood, and my office is  
3 right in Bohemia. We've had this issue  
4 before during a deposition where a  
5 witness has gone home during lunch and  
6 brought the records back, and we were  
7 able to resume and not take them out of  
8 another day of work, because I know they  
9 are manual laborers and they're relying  
10 on the work.

11 He's indicated that he could go  
12 back during a break to get those  
13 documents without any undue burden on  
14 him.

15 THE COURT: If that's the case,  
16 then fine. It would certainly save  
17 everybody from having to come back  
18 another day.

19 MR. McNAMARA: That would be fine,  
20 Your Honor.

21 The only thing is that I have not  
22 yet spoken to him, and I don't know  
23 exactly if he does or does not have them  
24 in his possession at home. He indicated  
25 on the record that he wasn't sure.

1 N. Quintanilla

2 MR. ZABELL: I think the record  
3 says something a little different, but  
4 I'm sure we'll be able to sort through  
5 that.

6 THE COURT: If he wants to go home  
7 and check, fine. He'll do his best to  
8 find them, and if he finds them, great.  
9 If he doesn't, he's going to come back  
10 and tell you that.

11 MR. ZABELL: Your Honor, I just  
12 want to make sure that you're granting my  
13 request to get the W-2s and the pay  
14 stubs?

15 THE COURT: Anything he's got that  
16 shows the time he worked at the other  
17 company, so long as, as I said, it's  
18 within the timeframe that he claims he  
19 was also working for the defendant.

20 MR. ZABELL: Thank you,  
21 Your Honor.

22 THE COURT: Okay?

23 MR. McNAMARA: Yes. We appreciate  
24 it, Your Honor. Thank you.

25 THE COURT: Have a good day.

1 N. Quintanilla

2 MR. ZABELL: You, as well,  
3 Your Honor.

4 (Whereupon, the telephone call  
5 with Judge Tomlinson was concluded.)

6 MR. McNAMARA: Let me go talk to  
7 my client.

8 (Whereupon, a recess was taken at  
9 this time.)

10 MR. ZABELL: Counsel has agreed to  
11 comply with all my requests and comply  
12 with the Judge's order by 1:10 p.m.

13 Correct, Counselor?

14 MR. McNAMARA: Or as soon as  
15 possible.

16 MR. ZABELL: As soon as humanly  
17 possible.

18 We're breaking for lunch now.  
19 It's 12:10 p.m.

20 (Whereupon, a luncheon recess was  
21 taken from 12:10 p.m. to 2:00 p.m.)

22 Q Mr. Quintanilla, during that  
23 break, I asked you to look at these documents to  
24 make sure that the copies that I just made are  
25 true and accurate copies of the documents that

1 N. Quintanilla

2 you brought to us during lunch.

3 Did you have an opportunity to do  
4 that?

5 A Yes.

6 Q Are they true and accurate copies?

7 A Yes.

8 Q You had a full and adequate  
9 opportunity to review the documents to ensure  
10 that they're adequate copies; right?

11 A Yes.

12 Q Okay. Thank you, sir.

13 I'm now handing you back your  
14 original documents. (Handing.)

15 Do you have those?

16 A Okay.

17 Q Did I hand them back to you; yes  
18 or no?

19 A Yes.

20 Q Did you ever provide these  
21 documents to your attorneys?

22 A Yes.

23 Q You did?

24 A Yes.

25 Q Do you know why they didn't turn

1 N. Quintanilla

2 them over to me?

3 A I don't know.

4 Q Was it Patrick's fault?

5 MR. McNAMARA: Objection.

6 A No.

7 Q Was it Ian's fault?

8 MR. McNAMARA: Objection.

9 A I don't know.

10 Q Was it Lauren's fault?

11 MR. McNAMARA: Objection.

12 A I don't know.

13 Q You don't know? Me neither.

14 Do you work for a company called  
15 DF Stone Contracting now?

16 A Yes. That's Sunstone, but it's  
17 just days. I'm not working full-time.

18 Q You're just working days there,  
19 but you're not working nights; correct?

20 A No. I only work -- when they do  
21 asphalt, they call me, and when they don't, I  
22 don't. They only call me some days.

23 Q Do you work with anybody that you  
24 worked with at Suffolk Paving or  
25 Suffolk Asphalt?

1 N. Quintanilla

2 A Yes.

3 Q Who?

4 A Mendez.

5 Q Pracelis Mendez?

6 A Yes.

7 Q Don't you also work with

8 Lerly Noe Rodriguez?

9 A Yes.

10 Q Didn't I just ask you who you  
11 worked with, and you said only Mendez?

12 A No.

13 MR. McNAMARA: Objection.

14 MR. ZABELL: Would you read back a  
15 couple of questions before.

16 (Whereupon, the requested portion  
17 of the record was read by the court  
18 reporter.)

19 Q Other than Pracelis Mendez, do you  
20 currently work with anybody else that you worked  
21 with at Suffolk Asphalt or Suffolk Paving?

22 A Can you repeat the question?

23 Q No.

24 A I don't understand the question.

25 Q Yes, you do.

1 N. Quintanilla

2 A It's just that I didn't  
3 understand.

4 Q Who do you work with that you used  
5 to work with at Suffolk Asphalt and  
6 Suffolk Paving?

7 A I used to work with Renato.

8 Q Now who do you work with now?

9 MR. McNAMARA: Objection.

10 A Oh, now. With Mendez and Lerly.

11 Q Anybody else?

12 A No.

13 Q Are you sure?

14 A Sure.

15 Q Do you work for a company called  
16 Capital Concrete of Long Island?

17 A The company that I'm working for,  
18 I know that it's called Sunstone, but I don't  
19 know if it has another name.

20 Q Don't you currently work with  
21 Maynor Fajardo?

22 A No.

23 Q How about Renato Guerra?

24 A No.

25 Q Do you know where Renato Guerra



1 N. Quintanilla

2 works?

3 A Yes.

4 Q Where does he work?

5 A At Pioneer Company.

6 Q And you don't work with him?

7 A No.

8 Q What about Maynor Fajardo?

9 A Yes. I work there. It's the same  
10 one.

11 Q So you also work with  
12 Maynor Fajardo?

13 MR. McNAMARA: Objection.

14 A No.

15 Q You just said yes, you worked  
16 there, it's the same one.

17 A No, I said no. Fajardo works at  
18 Pioneer. I don't work with him.

19 Q Then, why did you just say you  
20 did?

21 A No, I didn't say yes.

22 Q How did you get a job at Sunstone  
23 as you claim?

24 A Through Mendez.

25 Q What if I told you that Mendez did

1 N. Quintanilla

2 not testify that he works for a company called  
3 Sunstone?

4 A Well, I don't know.

5 Q What if I told you that Mendez  
6 says that he works for a company called Capital  
7 Concrete of Long Island?

8 A That's why -- I don't know if the  
9 company has another name or not. I saw that it  
10 says Sunstone.

11 Q Well, Lerly Rodriguez also says  
12 that he worked for a company called Capital  
13 Concrete of Long Island.

14 Did you know that?

15 A No.

16 Q He also says that he works for a  
17 company known as DF Stone Contracting.

18 Did you ever work for that  
19 company?

20 A For Sunstone?

21 Q D, the letter D, F Stone?

22 A Yes.

23 Q Yes, what?

24 A Yes, I worked for that company.

25 Q So you worked for DF Stone; is

1 N. Quintanilla

2 that correct?

3 A Yes.

4 Q What about Sunstone?

5 A I don't know if it's the same  
6 company or if it's separate. I don't know.

7 Q How much do you get paid an hour  
8 working at Sunstone?

9 A Sixty-nine -- I don't know  
10 exactly, about sixty-nine.

11 Q Sixty-nine what?

12 A Dollars an hour.

13 Q That's more than you made when you  
14 were working at Suffolk Asphalt; correct?

15 A Yes.

16 Q You're being paid as a laborer;  
17 correct?

18 A As a laborer.

19 Q What was your job at Suffolk Asphalt?

20 A Sometimes I would rake, and  
21 sometimes I was on the screw.

22 Q What was your title?

23 A Raker.

24 Q You weren't an operating engineer?

25 A No, I didn't use machinery. I

1 N. Quintanilla

2 used the screw when we did big streets because I  
3 knew how to use it.

4 Q You're sure you know how to use  
5 it?

6 A Yes.

7 Q Let's talk about your last day of  
8 work at Suffolk Asphalt.

9 A That's fine.

10 Q What happened?

11 Remember you promised to tell the  
12 truth. We know the truth.

13 A My last day, they called me. We  
14 were working on 24 Hempstead Turnpike. I don't  
15 remember the name of the street. We started at  
16 8:00 a.m., and then we stopped for lunch.

17 Q How long did you stop for lunch?

18 A We stopped for lunch a  
19 half-an-hour.

20 Q Which is what you usually stop for  
21 lunch; correct?

22 A We would get sandwiches; Italian  
23 heros, chicken cutlets. That's what we liked.

24 Q You usually stopped for at least  
25 half-an-hour; right?

1 N. Quintanilla

2 A Yes.

3 Q Okay, continue.

4 A We would come back. When I came  
5 back, Lou was up on the paver, so then he worked  
6 for awhile, and then he came down to me and  
7 said -- he asked me why I was moving the buttons  
8 on the paver so much, because the one that  
9 drives the paver goes to one side and doesn't  
10 drive it straight.

11 You move the extension so that  
12 it's not open, so he said you moved them too  
13 much. Then, he said -- I said, if the paver  
14 goes fast, it goes fast -- the thing that moves  
15 the asphalt.

16 Q The screw?

17 A The screw; yes.

18 And he said, you moved it too  
19 much, and I said, no. Okay, and he said, if you  
20 don't want to work, go home.

21 Q He said that to you?

22 A Yes.

23 Q Did you tell him, no, I want to  
24 work?

25 A No, so I came home.

1 N. Quintanilla

2 Q So he said to you that if you  
3 don't want to work, go home --

4 A Yes.

5 Q -- and you went home?

6 A Yes, I went home.

7 Q Indicating that you did not want  
8 to work; correct?

9 A Because he was sending me home.

10 Q Correct?

11 He said if you don't want to work,  
12 go home; and you said you don't want to go to  
13 work, so you went home; correct?

14 A Yes.

15 Q Were there any witnesses?

16 A Yes, my friends were working  
17 together with me.

18 Q I would like their names, please.

19 A Nelson Mendez and Efram  
20 Quinteros -- Juan Quinteros.

21 Q What about Efram?

22 A Efram?

23 Q You said Efram Quinteros.

24 A No, Juan Quinteros.

25 THE INTERPRETER: I'm sorry. I

1 N. Quintanilla

2 must have misunderstood him.

3 MR. ZABELL: No, you didn't

4 misunderstand him. I heard him.

5 A I said Juan Quinteros.

6 Q No, you didn't.

7 A Yes.

8 Q No.

9 So you voluntarily walked off of  
10 the job; correct?

11 A Yes. But because my boss sent me.

12 Q He gave you the choice and you  
13 chose to go home?

14 A Yes.

15 Q You didn't tell that to  
16 unemployment; did you?

17 A Excuse me?

18 Q You didn't tell that to  
19 unemployment; did you?

20 A No.

21 Q You lied to unemployment?

22 A No, because he sent me home.

23 Q He didn't send you home. He gave  
24 you the choice of working and listening to him,  
25 and if you didn't want to work, you could have

1 N. Quintanilla

2 gone home.

3 That's what you just testified to;

4 correct?

5 A Yes.

6 Q And you choose to go home?

7 A Yes.

8 Q Not for lack of work, but for lack

9 of a desire to work; correct?

10 A Yes, but --

11 Q Yes, but nothing.

12 A Okay.

13 Q Then, you swore to unemployment  
14 that you were telling the truth and said that  
15 there was a lack of work, but that wasn't the  
16 case when you walked off the job; correct?

17 A (No verbal response.)

18 Q Correct?

19 A Yes.

20 Q You lied to unemployment just to  
21 get unemployment benefits; correct?

22 A (No verbal response.)

23 Q Correct?

24 A No.

25 Q Why did you lie to unemployment?



1 N. Quintanilla

2 A Because my boss sent me home.

3 Q Your boss gave you a choice  
4 between working or going home.

5 You chose to go home; correct?

6 A Yes.

7 Q So your boss didn't tell you to go  
8 home.

9 You chose to go home; correct?

10 A Yes.

11 Q Why are you lying again?

12 I thought we agreed you weren't  
13 going to do that anymore.

14 A No. But it's that I'm telling the  
15 truth. That's what happened. I'm not lying.

16 Q Right. You're telling me the  
17 truth. Lou Vecchia told you that you could  
18 either work or you can go home.

19 You chose to go home; correct?

20 A Yes.

21 Q Then, you lied to unemployment and  
22 told them that there was no work and that was  
23 not true; correct?

24 A Yes, but --

25 Q But there was work, and you just

1 N. Quintanilla

2 chose not to do it; correct?

3 A Yes.

4 Q Did you tell unemployment that?

5 A No.

6 Q Do you know what the penalty is  
7 for lying to receive unemployment benefits?

8 A No.

9 Q Do you know that it's a violation  
10 of the law?

11 A No.

12 Q But you were comfortable lying to  
13 get something that you wanted; correct?

14 A No, I did not.

15 Q How much money did you receive a  
16 week from unemployment?

17 A A week, \$364 they gave me.

18 Q They only gave you that money  
19 because you lied to them and told them the false  
20 reason; correct?

21 A Afterwards, they stopped my  
22 benefits because Louie informed them that I had  
23 abandoned the job.

24 Q And you did abandon the job;  
25 correct?

1 N. Quintanilla

2 A It's true that I abandoned it,  
3 but --

4 Q Thank you.

5 A -- it was because he told me to.

6 Q He gave you the choice. You could  
7 either work or go home.

8 You chose to go home; correct?

9 A Yes.

10 Q Do you not understand that that's  
11 abandoning your job?

12 A No.

13 Q What country are you from?

14 A El Salvador.

15 Q In El Salvador, if a boss says to  
16 you that you can work or go home and you go  
17 home, is that equivalent to abandoning a job?

18 A No. Because in my country, when  
19 somebody -- when a boss sends you home, it's  
20 because he's firing you from the job.

21 Q Louis Vecchia didn't send you  
22 home.

23 He gave you the choice of staying  
24 or going and you chose to go; correct?

25 A Yes.

1 N. Quintanilla

2 Q He didn't send you home; correct?

3 A Yes, he sent me home.

4 Q You sent yourself home; didn't  
5 you?

6 A Because -- I didn't leave because  
7 I wanted to.

8 Q You could have stayed and worked  
9 and done what you were told; correct, and  
10 followed orders like a good worker; correct?

11 A I always followed his orders,  
12 always.

13 Q He said do you want to work or go  
14 home; correct?

15 A Yes.

16 Q Did you say, I want to work?

17 A No.

18 Q But you could have; right?

19 A Yes.

20 Q But your ego wouldn't let you;  
21 correct?

22 A Yes.

23 Q So your ego got you out of a job;  
24 right?

25 A Yes.

1 N. Quintanilla

2 Q If you just did what you were  
3 told, you'd still be working now; correct?

4 A I don't think so, because I didn't  
5 work a lot from July 4th. I worked about  
6 five -- I don't remember, but they would not  
7 have a lot of work for me.

8 Q There wasn't a lot of work for  
9 anybody; was there?

10 A Most of them worked. They would  
11 only leave me and Lerly home.

12 Q Why did you walk off the job?

13 A Because my boss sent me home.

14 Q We just we want through this. He  
15 didn't send you home. You just admitted to me  
16 that he didn't send you home.

17 He said to you, either you work or  
18 you go home; right?

19 A Yes.

20 Q So he didn't send you home; right?

21 A Yes.

22 Q So stop lying.

23 Why did you go home?

24 A Because he told me to go.

25 Q You know you're lying; right?

1 N. Quintanilla

2 A I'm not lying to you.

3 Q You are.

4 Ask your lawyer if he thinks  
5 you're lying. Go ahead, look at him.

6 MR. McNAMARA: I think that you  
7 need to be more clear, and listen to what  
8 Mr. Zabell is asking you.

9 THE WITNESS: Okay.

10 Q Did Louis Vecchia send you home?

11 A He told me to go. He said, do you  
12 want to work or you go home.

13 Q He gave you a choice; right?

14 A Yes.

15 Q You had two choices?

16 A Yes.

17 Q What were the two choices?

18 A Work or go home.

19 Q Which one did you choose?

20 A Go home.

21 Q Did you tell him, I choose to go  
22 home?

23 A Yes.

24 Q What did he say in response?

25 A You go.

1 N. Quintanilla

2 Q Did you say, no, but I really want  
3 to work?

4 A No.

5 Q It was entirely your choice;  
6 correct?

7 A Yes.

8 Q And it was your ego that wouldn't  
9 let you say, no, I want to stay here and work?

10 A Yes.

11 Q Is your ego providing for your  
12 family now?

13 MR. McNAMARA: Objection.

14 A I don't have to answer that  
15 question.

16 Q Yes, you do. Answer the question.

17 A No.

18 Q Are you sorry you made the choice  
19 that you made?

20 A No.

21 Q You're happy with the choice that  
22 you made?

23 A Yes.

24 Q Did you tell the woman that you  
25 call your wife about the choice that you made?

1 N. Quintanilla

2 A Yes.

3 Q Did you tell your wife that you  
4 lost your job because of your ego?

5 A I didn't say that it was because  
6 of my ego, but I said I had lost my job because  
7 they had sent me home.

8 Q But they didn't send you home;  
9 right?

10 A Yes.

11 Q You chose to go home?

12 A Yes.

13 Q How did you get home?

14 A In my friend's car.

15 Q Who?

16 A Juan Quinteros.

17 Q Did he quit too?

18 A No.

19 Q He did what he was told and wanted  
20 to work; right?

21 A No, because they didn't say  
22 anything to him.

23 Q Why do you think they said  
24 something to you?

25 A I don't know.



1 N. Quintanilla

2 Q Do you think they only said  
3 something to you because you're Hispanic?

4 A No.

5 Q Do you have any idea why they said  
6 anything to you?

7 A No.

8 Q Could they have said something to  
9 you because they didn't like the way you were  
10 doing your job?

11 A I don't know.

12 Q And they only wanted you to modify  
13 how you were doing your job; right?

14 A I don't know, I don't know.

15 Q That's what Lou Vecchia said.

16 He was only showing you a  
17 different way to use the machine; right?

18 A Yes.

19 Q And you refused to follow his  
20 directions; correct?

21 A No, I didn't refuse to follow his  
22 instructions.

23 Q Did you follow his instructions?

24 A I -- he didn't give me the  
25 opportunity to follow them.

1 N. Quintanilla

2 Q Well, he did give you the  
3 opportunity to answer the question whether or  
4 not you wanted to work or whether you wanted to  
5 go home; correct?

6 A Yes.

7 Q So he did give you the opportunity  
8 to say, I want to work and I'll follow your  
9 instructions; correct?

10 A Yes.

11 Q So he did give you the  
12 opportunity; correct?

13 A Yes.

14 Q Why would you lie again to me?

15 A I'm not lying, but I'm confused.

16 Q What are you confused about?

17 A You're asking me a question, and  
18 then, you're asking me another one.

19 Q I'm going to continue asking you  
20 questions all day and most of the night if this  
21 continues.

22 You understand that; right?

23 If you don't understand a question  
24 I ask you, you have to tell me that.

25 Do you understand?

1 N. Quintanilla

2 A Yes.

3 Q If you give me an answer to a  
4 question, it will be assumed that you understood  
5 it.

6 Do you understand?

7 A Yes.

8 Q So you lied to unemployment and  
9 told them that there was no work when, in fact,  
10 you walked off the job; correct?

11 A Yes.

12 Q And you lied to unemployment just  
13 for the purposes of getting unemployment  
14 benefits; correct?

15 A Yes.

16 Q And you received money that you  
17 did not deserve; correct?

18 A Yes.

19 Q Are you going to return it?

20 A If they ask me for it, yes.

21 Q What else are you lying about?

22 A No, I'm not lying anymore.

23 Q Anymore from this point forward?

24 A No.

25 Q But up until this point, you were

1 N. Quintanilla

2 okay lying; right?

3 MR. McNAMARA: Objection.

4 A No. It's not that I lied, but --  
5 well --

6 Q It's not that you lied, but you  
7 didn't tell the truth.

8 Is that what you're saying?

9 A It's just that I'm saying -- I'm  
10 saying -- I'm saying the truth.

11 Q What are you saying the truth  
12 about?

13 A About what you're asking me.

14 Q We're going to try this again.

15 On the table is a donut; correct?

16 A Yes.

17 Q How many donuts are on the table?

18 A One.

19 Q Are you telling the truth?

20 A Yes.

21 Q I say there's one donut on the  
22 table now.

23 Am I telling the truth?

24 A No.

25 Q Why am I not telling the truth?

1 N. Quintanilla

2 A Because there is no donut on the  
3 table.

4 Q Now I say there is a donut on the  
5 table.

6 Am I telling the truth?

7 A Yes.

8 Q Why am I telling the truth?

9 A Because there's a donut on the  
10 table.

11 Q So we understand the difference  
12 between the truth and a lie; correct?

13 A Yes.

14 Q And you understand between when  
15 you were telling the truth today and when you  
16 were telling a lie today; correct?

17 A Excuse me?

18 Q You understand today when you were  
19 telling the truth and when you were telling a  
20 lie; correct?

21 A Yes.

22 Q Okay. Please don't lie anymore.  
23 Do you understand?

24 A Yes.

25 Q Do you understand that every time

1 N. Quintanilla

2 you lie, you're exposing yourself to allegations  
3 of perjury?

4 A Okay.

5 Q There are severe penalties for  
6 that.

7 MR. McNAMARA: Objection.

8 A Okay.

9 Q Plus, it hurts your case, and your  
10 lawyer cringes every time you lie. Look at him,  
11 he'll agree.

12 MR. McNAMARA: Just please  
13 continue to tell the truth.

14 THE WITNESS: Okay.

15 Q Did you ever get paid overtime  
16 when you worked at Suffolk Paving?

17 A Yes, a few times.

18 Q Did you ever get paid overtime  
19 when you worked at Suffolk Asphalt?

20 A Yes.

21 Q Was overtime ever paid at double  
22 the amount of your hourly wage?

23 A No. They paid time-and-a-half.

24 Q They paid time-and-a-half for all  
25 hours over forty?

1 N. Quintanilla

2 A Yes.

3 (Document consisting of copies of  
4 pay stubs from Pave-Co were marked as  
5 Defendants' Exhibit Number 2, for  
6 identification, as of this date.)

7 Q Now, I'm going to show you a  
8 document that has been marked as Defendants'  
9 Exhibit Number 2.

10 Take a look at that.

11 A (Witness complies.)

12 Q Do you know what that document is?

13 A Yes.

14 Q What is that document?

15 A It's a check stub.

16 Q It's more than one check stub;  
17 right?

18 A Yes.

19 Q It's a check stub from what  
20 entity?

21 A It's from Pave-Co.

22 Q Does it show the period of time  
23 that you worked for Pave-Co?

24 A I don't know what the period of  
25 time is.

1 N. Quintanilla

2 Q Pass it up here, please.

3 A (Witness complies.)

4 Q Doesn't it show that you worked  
5 from June to October of 2006?

6 A Where does it say that?

7 MR. ZABELL: Let the record  
8 reflect that Patrick McNamara is coaching  
9 his witness in what I deem to be a  
10 permissible manner, pointing to where on  
11 the document it shows that my statement  
12 is absolutely correct.

13 Do you agree with that  
14 characterization of your action?

15 MR. McNAMARA: That's a fair  
16 characterization.

17 MR. ZABELL: Okay, thank you.

18 A Yes.

19 Q Yes, what?

20 A He's showing me.

21 Q He's showing you what?

22 A The date of the check stub.

23 Q Right.

24 Do the dates show that you worked  
25 from June to October of '06, like I said?



1 N. Quintanilla

2 A Yes, from 06/25 of 2006.

3 Q To?

4 A Until --

5 Q October?

6 MR. McNAMARA: Can you tell the  
7 witness that the documents are out of  
8 order, and that's why...

9 MR. ZABELL: Say please.

10 MR. McNAMARA: Please.

11 A Yes, I don't remember from what  
12 period to what period I worked.

13 Q Give me the document.

14 A (Witness complies.)

15 Q The first page shows that you  
16 worked in June; correct?

17 A Yes.

18 Q When you turn the page, does it  
19 not show that you worked in October?

20 A Yes.

21 Q See, I don't lie; do I?

22 A Yes.

23 Q I do lie?

24 A No.

25 Q I never lie; right?

1 N. Quintanilla

2 A No.

3 Q Thank you.

4 Do you remember working from June  
5 to October of 2006 now?

6 A Yes.

7 Q Then, why didn't you tell me that?

8 A Because I wasn't sure.

9 Q You're not sure about a lot of  
10 things you don't have a problem telling me  
11 about; right?

12 A Yes.

13 Q I know.

14 (Document consisting of a copies  
15 of pay stubs from Ralph Lunati was marked  
16 as Defendants' Exhibit Number 3, for  
17 identification, as of this date.)

18 Q I'm going to show you a document  
19 marked as Defendants' Exhibit Number 3.

20 You can take a look. Touch it,  
21 feel it, review it.

22 A (Witness complies.)

23 Q Do you know what this document is?

24 A Yes.

25 Q What is this document?

1 N. Quintanilla

2 A Check stubs when I worked for  
3 Ralph Lunati.

4 Q What did you do for Ralph Lunati?

5 A I raked and I shoveled.

6 Q Same thing you did for  
7 Suffolk Paving at the time; correct?

8 A Yes.

9 Q And you worked, roughly, the same  
10 amount of hours each week; correct?

11 A No. Sometimes we worked and  
12 sometime we didn't.

13 Q Did you work more or less hours at  
14 Ralph Lunati?

15 A Sometimes we worked from 7:00 to  
16 5:00. Sometimes 7:00 to 4:00, 6:00, 7:00, but  
17 we never had an hour. We got out at different  
18 times.

19 Q Answer the question I ask you.

20 Did you work more hours or less  
21 hours at Ralph Lunati?

22 A No.

23 Q Listen to my question.

24 Did you work more or less hours at  
25 Ralph Lunati than you did at Suffolk Paving?

1 N. Quintanilla

2 A I worked less hours for  
3 Ralph Lunati.

4 Q Did you ever work overtime at  
5 Ralph Lunati?

6 A Yes.

7 Q Were you paid for that overtime?

8 A Yes.

9 Q Does that show on your paychecks  
10 that you were paid for that overtime?

11 A Yes.

12 Q Show me where, please.

13 A (Perusing.)

14 Q Stop whispering, speak up.

15 A There are no overtime hours here.

16 Q I thought you just said you were  
17 paid overtime.

18 Are you lying again?

19 MR. McNAMARA: Objection.

20 A I haven't seen this in years. I  
21 don't remember.

22 Q You don't remember working  
23 overtime, or you don't remember getting paid  
24 overtime?

25 A No, I don't remember.

1 N. Quintanilla

2 Q You don't remember either or any?

3 A No.

4 Q If you don't remember something,  
5 don't lie about it. Just say you don't  
6 remember.

7 Do you understand that?

8 A (No verbal response.)

9 Q Do you understand that?

10 A Yes.

11 Q Would you like to take back what  
12 you said before?

13 A No. I don't remember.

14 (Document consisting of a copy of  
15 Mr. Quintanilla's W-2 Form from Pave-Co  
16 was marked as Defendants' Exhibit Number 4,  
17 for identification, as of this date.)

18 Q I'm going to show you a document  
19 that's been marked as Exhibit 4.

20 Take a look at that document.

21 A (Witness complies.)

22 Q Do you know what that document is?

23 A Yes, it's a W-2.

24 Q For when?

25 A For 2006.

1 N. Quintanilla

2 Q For what employer?

3 A For Pave-Co.

4 Q You worked for Pave-Co in 2006;  
5 right?

6 A Yes.

7 Q Do you remember when you worked  
8 for Ralph Lunati?

9 A Yes, in 2003.

10 Q Right.

11 From what month to what month?

12 A I don't recall.

13 Q Do you want to look at Exhibit 3?  
14 And I'll tell you that you worked from June to  
15 October.

16 A I don't remember the exact dates.  
17 I don't remember.

18 Q Right. But if you look at the  
19 document you just had in your hands, it will  
20 show that you worked from June to October;  
21 right?

22 A Yes.

23 Q So did you work from June to  
24 October?

25 A Yes.

1 N. Quintanilla

2 Q You worked for the whole paving  
3 season; right?

4 A It's just that -- it's just  
5 that -- yes, but I really don't remember, yes.

6 Q You brought those documents in;  
7 right?

8 A Yes.

9 Q I didn't make them up; right?

10 A No.

11 Q But the documents say you worked  
12 from June to October; correct?

13 A Yes.

14 Q Is there any reason why you don't  
15 believe that to be truthful and accurate?

16 A No, no, because the dates are  
17 here. It's true.

18 Q So you worked for Ralph Lunati for  
19 the paving season; correct?

20 A Yes.

21 Q And yet, the very next year,  
22 Suffolk Paving took you back; correct?

23 A Yes.

24 Q Why do you think they were so nice  
25 to you?

1 N. Quintanilla

2 A Because I was a good worker.

3 Q They paid you; correct?

4 A No.

5 Q They never paid you; right?

6 A At Suffolk Paving?

7 Q Correct.

8 A Yes.

9 Q Yes, they never paid you?

10 A Yes.

11 Q They made you work for free?

12 A They never paid me for all of the

13 work that I did.

14 Q They made you work for free;

15 right?

16 MR. McNAMARA: Objection.

17 Q Yes or no?

18 A Yes.

19 Q Yes, you worked for free; right,  
20 and every week you received a paycheck, though;  
21 right?

22 A Yes.

23 Q And every week it showed the hours  
24 that you worked on your paycheck; correct?

25 A Yes.



1 N. Quintanilla

2 Q Some of those weeks you received  
3 overtime; correct?

4 A A few times.

5 Q And some of those weeks you even  
6 got something called grease time; right?

7 A No, they would never pay me for  
8 grease time. I never used the machinery.

9 Q In addition to your paycheck,  
10 sometimes you'd get cash; right?

11 A Yes, a few times.

12 Q That money that they paid you  
13 allowed you to provide for the woman you call  
14 your wife; correct?

15 A Yes.

16 Q And your two children --

17 A Yes.

18 Q -- that you told me about?

19 A Yes.

20 Q There may be others that you don't  
21 want to tell me about.

22 MR. McNAMARA: Objection.

23 A No.

24 Q That money didn't help you pay to  
25 raise those children?

1 N. Quintanilla

2 MR. McNAMARA: Objection.

3 A Yes. The ones that I have now,  
4 yes.

5 Q Are you planning on having more?

6 A No, no, no.

7 Q When you say "the ones that I have  
8 now," you indicate to me that you might have  
9 another one on the way.

10 If you do and you don't want to  
11 tell me about it, it's okay, but I'm wishing you  
12 congratulations.

13 MR. McNAMARA: Objection.

14 A No, I don't think so.

15 Q But you're not sure now; are you?  
16 You're going to have to check.

17 I'll take those back.

18 A (Handing.)

19 (Document consisting of a copy of  
20 tax form Mr. Quintanilla received from  
21 Suffolk Paving was marked as Defendants'  
22 Exhibit Number 5, for identification, as  
23 of this date.)

24 Q I'm going to show you what's been  
25 identified as Defendants' Exhibit Number 5.

1 N. Quintanilla

2 What is that document?

3 A It's a copy of the taxes.

4 Q It's a copy of the tax form that  
5 you received from Suffolk Paving; correct?

6 A Yes.

7 Q For what year?

8 A For 2006.

9 Q That's the same year you worked  
10 for Pave-Co; right?

11 A Yes.

12 Q In addition to the money you made  
13 from Pave-Co, you also received money from  
14 Suffolk Paving; correct?

15 A Yes.

16 Q A lot of money; right?

17 A Yes.

18 Q For a short period of time; right?

19 A Yes.

20 Q Suffolk Paving was pretty good to  
21 you; right?

22 A Yes.

23 Q It allowed you to get hair gel;  
24 right?

25 A Yes.

1 N. Quintanilla

2 Q It allowed you to provide for your  
3 family?

4 A Yes.

5 Q Put a roof over your head?

6 A Yes.

7 Q Food in your belly?

8 A Yes.

9 Q And you're suing them?

10 A Yes.

11 Q And you don't know how much money  
12 you want from them?

13 A I don't know.

14 Q Not only are you suing  
15 Louis Vecchia, but you're suing his son;  
16 correct?

17 A Yes.

18 Q Do you know why you're suing his  
19 son?

20 A Yes. Because the company is owned  
21 by the father and him.

22 Q How do you know that?

23 A Because Chris's name is on the  
24 union company.

25 Q Is that the only reason you know

1 N. Quintanilla

2 that?

3 A Yes.

4 Q But not only are you suing the  
5 father and son, you're also suing his wife.

6 Did you know that?

7 A Yes.

8 Q Is that a nice thing to do?

9 MR. McNAMARA: Objection.

10 A No.

11 Q Are you comfortable suing his  
12 wife?

13 A Well, yes, because she is the one  
14 that was in charge of making the checks and  
15 everything.

16 Q But if she doesn't own the  
17 company, you've got no right to sue her;  
18 correct?

19 A I don't know if she's an owner.

20 Q Do you have any reason to believe  
21 that she is an owner?

22 A I think she is. She's Louie's  
23 wife.

24 Q Does your wife own everything you  
25 have?

1 N. Quintanilla

2 A No.

3 Q Does she own your hair gel?

4 A No.

5 Q Does she own your shirt?

6 A No.

7 Q Why do you think that

8 Helene Vecchia owns the company?

9 A Well, I don't know.

10 Q Exactly.

11 Do you think it's right to sue his  
12 wife?

13 MR. McNAMARA: Objection.

14 A Yes.

15 Q Why?

16 A Because she -- because she is in  
17 the business together with him, I think.

18 Q Why do you think?

19 A Because if he gave Chris the  
20 company, she can have it, as well. She can be  
21 in the business.

22 Q She was the one that made sure you  
23 got a paycheck every week; right?

24 A Yes.

25 Q And the paycheck indicated the

1 N. Quintanilla

2 hours you worked; correct?

3 A Yes.

4 Q Are you familiar with your  
5 collective bargaining agreement?

6 A What is the union?

7 Q The agreement that your union  
8 entered into with Suffolk Asphalt.

9 A No.

10 Q Do you know what the union  
11 agreement says with regard to travel time?

12 A No.

13 Q Do you know how travel time is  
14 supposed to be paid?

15 A No.

16 Q Do you know what travel time is?

17 A No.

18 Q Travel time is the time between  
19 getting to the shop in the morning and getting  
20 to the worksite.

21 A Okay.

22 Q Are you looking for anything,  
23 other than travel time in this lawsuit?

24 A (No verbal response.)

25 Q Yes or no?

1 N. Quintanilla

2 A No, no.

3 Q You're only looking for travel  
4 time; correct?

5 A No, for the hours that we worked  
6 and that they didn't pay us for.

7 Q What hours were those?

8 Go by day, day and year. Tell me  
9 what those hours were.

10 A Days and years, I don't remember.  
11 We would always work sixty, fifty, and sometimes  
12 we worked seventy-five hours.

13 Q In a month?

14 A A week.

15 Q No, you didn't.

16 MR. McNAMARA: Objection.

17 Q Stop lying.

18 MR. McNAMARA: Objection.

19 A No, because we would always  
20 work -- we would start 6:30. We would get to  
21 the yard at 6:30. We would return at 6:00 p.m.,  
22 7:00 at night. We worked fifty, fifty-five  
23 hours per week.

24 Q Did you work fifty or fifty-five?

25 A We would always work -- it wasn't



1 N. Quintanilla

2 always fifty or fifty-five. Sometimes we work  
3 forty, forty-five, fifty, sixty hours a week.

4 Q No, you didn't.

5 A Yes.

6 Q When it rained, sometimes you  
7 didn't work forty hours in a week.

8 A No. When it rained and it was  
9 raining when we woke up, we didn't go in.

10 Q And then, there were some weeks  
11 where, in the beginning and the end of the  
12 season, you didn't even work every day of the  
13 week; correct?

14 A I don't understand.

15 Can you repeat the question?

16 Q At the beginning and at the end of  
17 the season, you didn't even work five days a  
18 week; correct?

19 A No. At the end of the season, we  
20 would work four or three days, four or three  
21 days because of cold. It was for those reasons,  
22 we didn't work.

23 Q At the beginning of the season  
24 too; correct?

25 A Yes.

1 N. Quintanilla

2 Q So you didn't always work the  
3 hours you said.

4 You were, again, lying; correct?

5 A No. Because we worked -- when the  
6 season would start and it was hot, we did work  
7 all of that time.

8 MR. McNAMARA: Can we take a short  
9 bathroom break?

10 MR. ZABELL: You're asking me if  
11 you can go to the bathroom?

12 MR. McNAMARA: Well, on the record  
13 just so that we can --

14 MR. ZABELL: Are you asking me if  
15 you can go to the bathroom?

16 MR. McNAMARA: Well, I'm not  
17 asking you. I'm asking, on the record,  
18 to take a break.

19 MR. ZABELL: As long as you wash  
20 your hands before you come back in.

21 MR. McNAMARA: Your office needs  
22 to provide some soap then. Good thing I  
23 have hand sanitizer.

24 MR. ZABELL: You're excused.

25 MR. McNAMARA: Great.

1 N. Quintanilla

2 (Whereupon, a recess was taken at  
3 this time.)

4 Q Are you okay?

5 A Yes.

6 Q You're going to tell the truth;  
7 right?

8 A Yes.

9 Q If you don't, your nose is going  
10 to grow like Pinocchio.

11 MR. McNAMARA: I just want to say  
12 on the record that any questioning  
13 regarding Nelson's unemployment and/or  
14 the Department of Labor will be subject  
15 to the confidentiality agreement.

16 MR. ZABELL: I will object to that  
17 designation, and, Counselor, you know  
18 what steps you need to take in order to  
19 enforce your designation or to test the  
20 appropriateness with the Court.

21 MR. McNAMARA: Right.

22 MR. ZABELL: Correct?

23 MR. McNAMARA: Yes.

24 Q Now, why did you lie to the  
25 New York State Department of Labor, Division of

1 N. Quintanilla

2 Unemployment, regarding the end of your  
3 employment with Suffolk Paving or  
4 Suffolk Asphalt?

5 You may want to ask your attorney  
6 if you should assert your rights to not  
7 incriminate yourself.

8 A Can I speak --

9 MR. McNAMARA: Would you come and  
10 translate for us?

11 THE INTERPRETER: Sure.

12 MR. ZABELL: Can I, please?

13 MR. McNAMARA: I'm sorry. Please.

14 THE INTERPRETER: Yes, I will.

15 MR. McNAMARA: Thank you.

16 (Whereupon, a recess was taken at  
17 this time.)

18 Q You guys met and spoke outside?

19 A Yes.

20 Q Is there something you want to  
21 say?

22 A No.

23 MR. ZABELL: Go ahead. Help him  
24 out, Counselor.

25 MR. McNAMARA: We discussed

1 N. Quintanilla

2 outside that you have a Fifth Amendment  
3 Right against self-incrimination, and you  
4 can elect to assert that right by  
5 responding to Mr. Zabell as we discussed  
6 outside.

7 THE WITNESS: Okay, yes.

8 Q Do you feel that if you answer my  
9 question, you will be incriminating yourself?

10 A I'm going to use -- take the  
11 Fifth.

12 Q Do you believe that if you answer  
13 my question, you will be incriminating yourself?

14 A (No verbal response.)

15 Q You must answer that.

16 A Yes.

17 Q So you acknowledge that you did  
18 something wrong with unemployment?

19 A I don't think so, because when I  
20 called for unemployment, I didn't have work. I  
21 wasn't working. I was at home, and from  
22 July 4th until August, I worked about five days.  
23 I don't remember really well, but I didn't work  
24 much.

25 Q And you didn't work because you

1 N. Quintanilla

2 walked off of the job site; correct?

3 MR. McNAMARA: Objection.

4 A No. At that time, they called me  
5 to work another day. I went and then that's  
6 when I went home.

7 Q After you walked off the job site,  
8 they called you back to come back to work?

9 Mr. McNAMARA: Objection.

10 A No, no, no, no, no.

11 Q Because that's what you just said.  
12 Are you lying to me again?

13 A No.

14 Q I think you might be.

15 MR. McNAMARA: Objection.

16 A No. From July -- since July, I  
17 didn't work. Okay, the last day I worked -- I'm  
18 not sure if it was August 6th. I don't know the  
19 date, but it was in August, and whenever I  
20 worked, I reported the day.

21 Q Right. But the last day you  
22 worked was when you walked off the job; correct?

23 A Yes.

24 Q Voluntarily because of your ego;  
25 yes?

1 N. Quintanilla

2 MR. McNAMARA: Objection.

3 Q Yes?

4 A Can I take the Fifth?

5 Q Did your attorneys convey to you a  
6 settlement offer in this case?

7 A Yes, to my friend.

8 Q What did they tell you?

9 A Mendez told me that they had  
10 offered him \$100,000.

11 Q Him, personally, or everybody?

12 A Everyone.

13 Q Did your lawyers tell you that?

14 A Yes.

15 Q When?

16 A I don't remember when.

17 Q Did they give you an opportunity  
18 to accept or reject that amount?

19 A My attorney?

20 Q Yes.

21 A They told me to reject it.

22 Q Did they give you an opportunity  
23 to accept it?

24 A No.

25 Q Don't you think they should have?

1 N. Quintanilla

2 A No.

3 Q Because now, instead of getting a  
4 potential settlement, you're looking at  
5 potential perjury charges and Workers'  
6 Compensation fraud; right?

7 A (No verbal response.)

8 Q Correct?

9 A Can I take the Fifth?

10 Q No.

11 A Can you repeat the question?

12 Q Instead of accepting the  
13 settlement and walking away, you're now looking  
14 at potential perjury charges, because you've  
15 lied throughout today's deposition and criminal  
16 prosecution for unemployment fraud; right?

17 A Yes.

18 Q Are you happy about that?

19 A No.

20 Q It seems like you got some bad  
21 advice along the way, my friend.

22 Do you understand that?

23 A Yes.

24 Q When did you drive the box truck;  
25 during which years?



1 N. Quintanilla

2 A The box truck, I don't remember  
3 which years.

4 Q Is that the only company vehicle  
5 you drove?

6 A Yes, the box truck.

7 Q And you have no idea what years  
8 you drove that box truck?

9 A No, I don't recall.

10 Q Do you remember testifying today  
11 that you always drive the box truck?

12 A No, not always. I drove it for  
13 some years because a few of us drove it. I  
14 drove it, Lerly drove it, and Walter.

15 Q Did you drive anybody to work in  
16 the morning?

17 A Yes.

18 Q Who?

19 A I would drive from the yard to the  
20 job.

21 Q Every day?

22 A During the time that I was  
23 driving, yes.

24 Q Your vehicle or the company's  
25 vehicle?

1 N. Quintanilla

2 A No, the company's. The box truck.

3 Q And you have no idea when that  
4 was?

5 A No.

6 Q And you have no idea for how long  
7 that was; do you?

8 A No, I don't know for how long I  
9 drove it.

10 Q When you drove to the shop every  
11 morning, to the shop, did you pick anybody else  
12 up in the morning?

13 A In the box truck?

14 Q In your car.

15 A In my car, I always left my house  
16 at 5:30. Sometimes I would pick up a coworker  
17 of mine and sometimes not.

18 Q Who was the coworker you would  
19 pick up?

20 A Jose Vega.

21 Q He was the only person you would  
22 pick up in the morning?

23 A Yes.

24 Q Do you have a telephone?

25 A Yes.

1 N. Quintanilla

2 Q What is your telephone number?

3 A (No verbal response.)

4 Q Do you not know your telephone  
5 number?

6 A His?

7 Q Yours.

8 A Oh, mine; yes.

9 Q What is your telephone number?

10 A It's (631) 782-5953.

11 Q Did you ever provide that number  
12 to anyone at Suffolk Paving?

13 A Yes.

14 Q Who did you provide that to?

15 A To Chris.

16 Q So Chris could call you and give  
17 you job assignments; correct?

18 A Yes.

19 Q So you knew where to show up in  
20 the morning; correct?

21 A Yes.

22 Q And Chris has been calling you for  
23 the past six years to tell you where to show up  
24 for work in the morning; right?

25 A (No verbal response.)

1 N. Quintanilla

2 Q Yes?

3 A (No verbal response.)

4 Q Si?

5 A Not six years.

6 Q Five years?

7 A From -- he started calling me  
8 in 2009.

9 Q So from 2009 forward, he would  
10 call you the night before to tell you where to  
11 go in the morning?

12 A No, he would call me in the  
13 morning.

14 Q Oh, he would call you in the  
15 morning and tell you where to go?

16 A Yes.

17 Q Before 2009, he would call you at  
18 night and tell you where to go; right?

19 A No.

20 Q You have a GPS in your car; right?

21 A In my car?

22 Q Yes.

23 A Yes.

24 Q It tells you where to go. It  
25 gives you directions; correct?

1 N. Quintanilla

2 A Yes.

3 Q When did you get that?

4 A I got it -- I don't remember when  
5 I bought it.

6 Q But you got it at or about the  
7 time that you stopped driving to the shop in the  
8 morning; right?

9 A Yes.

10 Q Because before, you would go to  
11 the shop to get a copy of a map to give you  
12 directions on where to go; right?

13 A Yes.

14 Q And that was really the only  
15 reason you would go in the morning; correct?

16 A Yes.

17 MR. ZABELL: Thank you. I have  
18 nothing further.

19 (Time noted: 4:15 p.m.)

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A C K N O W L E D G E M E N T

STATE OF NEW YORK )

: ss

COUNTY OF )

I, NELSON QUINTANILLA, hereby certify that  
I have read the transcript of my testimony taken  
under oath in my deposition of September 20, 2011;  
that the transcript is a true, complete and  
correct record of my testimony; and that the  
answers on the record as given by me are true  
and correct.

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NELSON QUINTANILLA

Signed and subscribed to before me  
this \_\_\_\_ day of \_\_\_\_\_, 2011.

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Notary Public, State of New York

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C E R T I F I C A T E

I, KAREN M. LaMENDOLA, a Notary Public in  
and for the State of New York, do hereby certify:

THAT the witness whose testimony is  
hereinbefore set forth, was duly sworn by me;  
and

THAT the within transcript is a true  
record of the testimony given by said witness.

I further certify that I am not related,  
either by blood or marriage, to any of the  
parties in this action; and

THAT I am in no way interested in the  
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 5th day of October, 2011.

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KAREN M. LaMENDOLA



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ERRATA SHEET

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